

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF FRESNO,
THE CITY OF FRESNO, AND
THE FRESNO REDEVELOPMENT AGENCY

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2 THE COUNTY OF FRESNO, THE CITY OF FRESNO,
3 AND THE FRESNO REDEVELOPMENT AGENCY
4

5 THIS MEMORANDUM OF UNDERSTANDING (hereinafter "MOU")
6 is made and executed this 26th day of FEBRUARY, 1991
7 (the "effective date") by and between the COUNTY OF FRESNO, a
8 political subdivision of the State of California (hereinafter
9 referred to as "COUNTY"), the CITY OF FRESNO, a municipal
10 corporation of the State of California (hereinafter referred to
11 as "CITY"), and the FRESNO REDEVELOPMENT AGENCY, a
12 redevelopment agency organized and existing under and by virtue
13 of the laws of the State of California (hereinafter referred to
14 as "AGENCY").
15

16 W I T N E S S E T H
17

18 WHEREAS, COUNTY, CITY and AGENCY wish to work together
19 to develop a fair and equitable approach to tax sharing and the
20 encouragement of sound urban development, redevelopment and
21 economic growth; and

22 WHEREAS, in order to encourage timely economic
23 development and environmentally sound land use planning, it is
24 important that any tax sharing arrangements among COUNTY, CITY
25 and AGENCY be determined in advance of such development and
26 planning and that any detrimental fiscal impact of such
27 arrangements be reduced as far as practicable; and

28 WHEREAS, COUNTY, CITY and AGENCY recognize the

1 importance of COUNTY, CITY, and AGENCY's services and are
2 prepared to cooperate as provided in this MOU in an effort to
3 address COUNTY's, CITY's, and AGENCY's fiscal problems in
4 providing such services, as well as their respective economic
5 and planning needs; and

6 WHEREAS, through annexation and appropriate
7 redevelopment, CITY and AGENCY provide the opportunity for
8 economic growth and development which will benefit the
9 residents of CITY, COUNTY and AGENCY and will support public
10 services for CITY, COUNTY, and AGENCY; and

11 WHEREAS, close cooperation between COUNTY, CITY and
12 AGENCY is necessary to maintain and improve the quality of life
13 throughout Fresno County, including CITY, and deliver needed or
14 desirable services in the most timely and cost-efficient manner
15 to all CITY and COUNTY residents; and

16 WHEREAS, COUNTY recognizes the need for orderly growth
17 within and adjacent to CITY, for supporting appropriate
18 annexations by CITY and appropriate redevelopment by AGENCY,
19 and for promoting the concentration of development within CITY;
20 and

21 WHEREAS, CITY and AGENCY recognize that development
22 within CITY limits may also have the effect of concentrating
23 revenue-generating activities within CITY rather than in
24 unincorporated areas; and

25 WHEREAS, annexation which results in the development
26 of urban uses in response to need is appropriate; noncontiguous
27 urban development of such uses in unincorporated areas within
28 CITY's sphere of influence is not orderly and may result in

1 service inefficiencies and unnecessary expense to COUNTY and
2 CITY; and well planned and fiscally sound redevelopment can be
3 a valuable tool in the physical and economic development of
4 CITY and COUNTY.

5 NOW, THEREFORE, COUNTY, CITY and AGENCY hereby agree
6 as follow:

7
8 ARTICLE I

9 DEFINITIONS

10
11 Unless the particular provision or context otherwise
12 requires, the definitions contained in this article and in
13 applicable statutes, codes and regulations shall govern the
14 construction, meaning, and application of words used in this
15 MOU. In case of a conflict between a definition in this
16 article and a definition in any other document, statute, code
17 or regulation, the definition in this article shall control to
18 the extent permitted by law.

19 1.1 "Base property tax revenue" means property tax
20 revenue allocated by tax rate equivalents to all taxing
21 jurisdictions as to the geographic area comprising a given tax
22 rate area annexed in the fiscal year immediately preceding the
23 tax year in which property tax revenues are apportioned
24 pursuant to this MOU, including the amount of State
25 reimbursement for the homeowners' exemption.

26 1.2 Except as provided in article VI, "property tax
27 increment" means revenue from the annual tax increment, as
28 "annual tax increment" is defined in Section 98 of the Revenue

1 and Taxation Code, attributable to the tax rate area for the
2 respective fiscal year.

3 1.3 "Substantial development" or "substantially
4 developed" means real property which, prior to annexation, has
5 an improvement value to land value ratio equal to or greater
6 than 1.25:1, as determined by the Fresno County Assessor's
7 records, as of the property tax lien date in the fiscal year in
8 which the annexation becomes effective under the Cortese-Knox
9 Local Government Reorganization Act.

10 1.4 "Property tax revenue" means base property tax
11 revenue, plus the property tax increment for a given tax rate
12 area in a given fiscal year.

13 1.5 "Tax apportionment ratio" means the tax
14 apportionment ratio of the parties for a given fiscal year and
15 shall be ascertained by dividing the amount determined for each
16 party pursuant to Revenue and Taxation Code Sections 96(a) or
17 97(a), whichever is applicable, by that party's gross assessed
18 value, and by then dividing the sum of the resulting tax rate
19 equivalents of both parties into each party's tax rate
20 equivalent to produce the tax apportionment ratio.

21 1.6 "Tax rate equivalent" means the factor derived
22 for a jurisdiction by dividing the property tax revenue
23 allocated to that jurisdiction for the prior fiscal year
24 computed pursuant to Section 97 of the Revenue and Taxation
25 Code by the gross assessed value of the jurisdiction for the
26 prior fiscal year. "Revenue allocated," as used in this
27 section, means "levied."

28 1.7 "Redevelopment project" means any new

1 redevelopment plan or project area and any amendment to an
2 existing redevelopment plan or project area to which Health and
3 Safety Code Section 33354.6, as amended by Chapter 147 of the
4 1984 Statutes, applies. By way of example only and without
5 limitation, the addition of the power of eminent domain to an
6 existing redevelopment plan is not a "redevelopment project"
7 because it does not affect any of the criteria listed in Health
8 and Safety Code Section 33354.6. When the provisions of
9 article VI are applied to an amendment to a redevelopment plan,
10 it shall apply only to that portion of the plan being amended
11 which under state law would trigger the fiscal review process.
12 Consolidation or merger of all or part of redevelopment project
13 areas in existence prior to the effective date of this MOU are
14 not subject to article VI.

15 1.8 "Day" or "days" means calendar days unless
16 specified otherwise.

17 1.9 "Gross assessed value" shall have the meaning
18 ascribed by State statute or administrative law pertaining to
19 the administration of property tax assessment.

20 21 ARTICLE II

22 ANNEXATIONS BY CITY

23
24 2.1 Any annexations undertaken by CITY following the
25 date of the execution of this MOU shall be consistent with both
26 the terms of this MOU and The Standards (hereinafter "The
27 Standards" or "Standards") as set forth in Exhibit "1",
28 attached hereto and incorporated by reference herein as if set

1 forth fully at this point. This MOU shall not apply to
2 annexations proposed by CITY which are not in compliance with
3 its terms or which fail to meet The Standards. If a proposed
4 annexation is not in compliance with the terms of this MOU,
5 including, but not limited to, The Standards, then no property
6 tax exchange agreement, as required by Revenue and Taxation
7 Code Section 99, shall exist in regards to that proposed
8 annexation. Any such non-complying annexation shall be handled
9 individually through separate negotiations between CITY and
10 COUNTY pursuant to Revenue and Taxation Code section 99(b)(6).
11 These negotiations shall be outside the scope of this MOU.

12 2.2 CITY shall, at least thirty days prior to filing
13 any annexation proposal with the Fresno County Local Agency
14 Formation Commission (hereinafter "LAFCO"), notify COUNTY of
15 its intention to file such proposal and the date upon which
16 CITY expects such proposal to be filed. Upon COUNTY's request,
17 CITY shall meet with COUNTY to review whether the proposed
18 annexation complies with this article and The Standards.
19 Within thirty days after the date COUNTY receives notice by
20 CITY of its annexation proposal, COUNTY shall notify CITY in
21 writing if it has determined that the proposed annexation is
22 inconsistent with this article or The Standards. The notice
23 shall describe in reasonable detail the alleged
24 inconsistency(ies). If COUNTY fails to give such notice within
25 the thirty day period, the annexation shall be conclusively
26 deemed consistent with all provisions of this article and The
27 Standards. Upon receipt of such notification, CITY may either
28 modify the proposal to remove the inconsistencies specified by

1 COUNTY or adopt a resolution finding that the proposed
2 annexation is, in CITY's determination, consistent with this
3 article and The Standards.

4 2.3 If CITY adopts a resolution making the findings
5 described in section 2.2, then COUNTY may challenge such
6 findings by appropriate court action provided such action is
7 filed within thirty days of receipt of written notice of the
8 adoption of CITY's resolution. COUNTY and CITY shall cooperate
9 and take all steps reasonably necessary so that the court
10 action is concluded as quickly as possible. The court shall
11 independently review the evidence and determine, based upon a
12 preponderance of the evidence, whether the proposed annexation
13 is consistent with this article and The Standards, as to those
14 particulars specified by COUNTY in the notice of inconsistency
15 given under Section 2.2.

16 As an alternative to a judicial challenge by COUNTY,
17 COUNTY and CITY may, within the aforesaid thirty day period,
18 mutually agree in writing to arbitrate their dispute through
19 proceedings conducted in accordance with the rules established
20 by the American Arbitration Association. Notwithstanding any
21 other provision of this MOU, either party may refuse to agree
22 to arbitration for any reason. Upon agreeing to arbitrate, the
23 parties will proceed with arbitration within thirty days after
24 the agreement, and shall cooperate and take all steps
25 reasonably necessary so that the arbitration proceedings are
26 concluded as quickly as possible. The arbitrator(s) hearing
27 the matter shall independently review the evidence and
28 determine, based upon a preponderance of the evidence, whether

1 the proposed annexation is consistent with this article and The
2 Standards, as to those particulars specified by COUNTY in the
3 notice of inconsistency given under Section 2.2.

4 Costs and reasonable attorneys' fees incurred by the
5 prevailing party, either in court proceedings or arbitration,
6 in amounts determined by the court or arbitrator(s) shall be
7 paid by the non-prevailing party. The parties agree that CITY
8 shall not proceed to LAFCO with the proposed annexation prior
9 to expiration of the thirty day period in which COUNTY may file
10 its court action or agree to arbitrate or, if COUNTY complies
11 with the thirty day period, until the dispute is finally
12 resolved either by court or arbitration proceedings. If CITY
13 attempts to proceed with such proposed annexation prior to the
14 expiration of the period in which COUNTY may file its court
15 action or agree to arbitrate, or prior to court or arbitration
16 proceedings being final, or after the final conclusion of such
17 court or arbitration proceedings where COUNTY is the prevailing
18 party, then this MOU shall immediately terminate as to such
19 annexation. In that event, no property tax exchange agreement,
20 as required by Section 99 of the Revenue and Taxation Code,
21 shall exist between CITY and COUNTY as to that proposed
22 annexation. However, COUNTY and CITY may thereafter adopt
23 resolutions pursuant to Revenue and Taxation Code section
24 99(b)(6) regarding a property tax exchange for that
25 annexation.

26 Notwithstanding the foregoing, CITY may proceed to
27 LAFCO under this MOU if court or arbitration proceedings are
28 not completed within thirty days after the filing thereof

1 provided, however, that LAFCO in its resolution of approval, at
2 the request of the CITY, conditions the completion of the
3 annexation upon the Executive Officer's prior receipt of a
4 certified copy of the document evidencing the finality of the
5 aforesaid court or arbitration proceedings determining that the
6 proposed annexation is consistent with this article and The
7 Standards, or alternatively, receipt of a written stipulation
8 by CITY and COUNTY agreeing that a master property tax
9 agreement still exists permitting the completion of such
10 proposed annexation. If LAFCO declines to include the
11 aforesaid condition in its approval, or CITY fails to timely
12 request such condition, no property tax exchange agreement as
13 required by Section 99 of the Revenue and Taxation Code shall
14 exist between CITY and COUNTY as to that proposed annexation.

15 If CITY nevertheless attempts to proceed with the
16 annexation, then this MOU may be terminated in its entirety by
17 COUNTY as provided in section 8.2.

18 19 ARTICLE III

20 EXCHANGE OF PROPERTY TAX REVENUES TO BE MADE UNDER 21 SECTION 99 OF THE REVENUE AND TAXATION CODE 22

23 3.1 The property tax revenues collected in relation
24 to annexations covered by the terms of this MOU shall be
25 apportioned between CITY and COUNTY as set forth in sections
26 3.2 and 3.3 below. The parties acknowledge that, pursuant to
27 Sections 54902, 54902.1 and 54903 of the Government Code and
28 Sections 97 and 99 of the Revenue and Taxation Code, the

1 distribution of such property tax revenues will not be
2 effective until the revenues are collected in the fiscal year
3 following the calendar year in which the statement of boundary
4 changes and the map or plat is filed with the County Assessor
5 and the State Board of Equalization.

6 3.2 In regards to the annexation of real property
7 which is not considered substantially developed at the time of
8 annexation, COUNTY will retain all of its base property tax
9 revenue upon annexation. The amount of the property tax
10 increment allocated to special districts whose services are
11 assumed by CITY shall be combined with the property tax
12 increment allocated to COUNTY, the sum of which shall be
13 allocated between CITY and COUNTY pursuant to the following
14 ratio:

15
16 COUNTY: 62%

17 CITY: 38%

18
19 3.3 In regards to the annexation of real property
20 which is considered substantially developed at the time of
21 annexation, property tax revenue (base plus increment) will be
22 reallocated as follows: A detaching or dissolving district's
23 property tax revenue (base plus increment) shall be combined
24 with COUNTY's and the sum shall be allocated between CITY and
25 COUNTY pursuant to the ratio set forth in section 3.2.
26
27
28

1 ARTICLE IV

2 DEVELOPMENT

3
4 4.1 For the area from CITY's boundary and out
5 one-half mile therefrom, or to the CITY's sphere of influence
6 boundary, whichever distance is less, and including all COUNTY
7 islands within CITY's limits, the following principles shall
8 apply:

9 COUNTY shall not approve any discretionary development
10 permits for new urban development unless that development shall
11 have first been referred to CITY for consideration of possible
12 annexation. If CITY does not, within sixty days, or within 105
13 days if CITY applies the California Environmental Quality Act,
14 of receipt of written notice of referral of the proposed
15 development from COUNTY, adopt a resolution of application to
16 initiate annexation proceedings before LAFCO, COUNTY may
17 process applications for development permits for that new urban
18 development, consistent with the most recently adopted CITY
19 general plan and applicable community plan, and consistent with
20 COUNTY's general plan policies, provided: (1) that the
21 development is orderly and does not result in the premature
22 conversion of agricultural lands; and (2) that COUNTY shall
23 require compliance with all applicable development standards
24 specified in CITY plans and codes as of the effective date of
25 this MOU and charge fees to the developer(s) reflecting the
26 increased administrative and implementing costs, if any, where
27 such costs are due to CITY standards that are more stringent
28 than COUNTY's. CITY shall not amend the applicable development

1 standards without COUNTY's prior approval.

2 CITY agrees to cooperate with COUNTY in providing data
3 in support of fees covering the applicable CITY standards.
4 COUNTY's actual fees may be more or less than CITY's, depending
5 on the data and other evidence provided at the public hearing.
6 CITY and COUNTY may annually prepare such a fee schedule for
7 COUNTY use to be adopted during COUNTY's budget process.
8 COUNTY agrees to adopt and implement the policies, procedures
9 and ordinances necessary to effectuate the intent of this
10 article. COUNTY will transfer fees collected for complying
11 with CITY development standards, including installation of CITY
12 public facility improvements, at the earliest time when it is
13 legally permissible to do so.

14 The Joint Resolution on Metropolitan Planning, a copy
15 of which is attached hereto as Exhibit "2", is incorporated by
16 reference herein as if set forth fully at this point, except to
17 the extent that the resolution is inconsistent with this MOU;
18 in such a case, this MOU supersedes the resolution. "Urban
19 boundary", as that term is used in the Joint Resolution for
20 Metropolitan Planning and herein, means "sphere of influence".
21 Any change in the urban boundary proposed by either COUNTY or
22 CITY which would expand the area included requires the mutual
23 consent of both parties prior to submission to LAFCO.

24 For all land within the area subject to this section
25 as of the effective date of this MOU other than that annexed
26 from a COUNTY island, prior to the approval of any amendment to
27 an adopted CITY plan which, if approved, authorizes land uses
28 which are more intensive than those allowed by applicable

1 COUNTY plans immediately prior to annexation, CITY and COUNTY
2 shall mutually agree to that amendment or change.

3 If land is annexed from a COUNTY island, CITY agrees
4 that it will maintain the zoning of that land which is
5 consistent with COUNTY plans in existence as of the date of
6 this MOU, unless CITY and COUNTY mutually agree otherwise prior
7 to the approval of any change in zoning.

8 CITY's Local Planning and Procedures Ordinance
9 (hereinafter, "LPPO") is incorporated by reference into this
10 MOU as if set forth fully at this point. CITY shall not amend
11 in any material way the following provisions of the LPPO or its
12 Municipal Code unless the parties first mutually agree:
13 Sections 12-403-C.1. and 2 and 12-403-E; and Section
14 12-607-A.1. Those sections are set forth in Exhibit "3",
15 attached hereto and incorporated by reference herein as if set
16 forth fully at this point.

17 CITY agrees to adopt any policies and plans necessary
18 to effectuate the intent of this section.

19 4.2 For the area within CITY's sphere of influence
20 between one-half mile from CITY's boundary and its sphere of
21 influence boundary:

22 COUNTY will adhere to its Fringe Area Policy as
23 provided in its general plan. COUNTY shall not amend the
24 Fringe Area Policy in any material way unless the parties first
25 mutually agree.

26 For all land within the area subject to this section
27 as of the effective date of this MOU which is subsequently
28 annexed to CITY, prior to the approval of any amendment to an

1 adopted CITY plan which, if approved, authorizes land uses
2 which are more intensive than those allowed by applicable
3 COUNTY plans immediately prior to annexation, CITY and COUNTY
4 shall mutually agree to that amendment or change.

5 CITY agrees to adopt all policies and plans necessary
6 to effectuate the intent of this section.

7 4.3 For the area from CITY's sphere of influence
8 boundary and out to the Fresno Clovis Metropolitan Area
9 boundary, as shown on Exhibit "4", which is incorporated by
10 reference herein as if set forth in full at this point, but
11 excepting (1) any area north of Shields Avenue and east of
12 Willow Avenue; (2) any area in another city or another city's
13 sphere of influence; (3) any development application pending as
14 of the effective date of this MOU as provided in section 4.8;
15 and (4) areas for which COUNTY has adopted a Community Plan as
16 of the effective date of this MOU, including Malaga, Easton,
17 and the Route 99 Golden State Industrial Corridor:

18 CITY and COUNTY agree that, in the early stages of
19 preparation of any plan amendment for new urban type
20 development that is not consistent with the plan designation in
21 the applicable COUNTY plan(s), they will consult at the staff
22 level in such fashion as to provide meaningful participation by
23 CITY in the plan amendment and policy formulation process, and
24 shall likewise consult on other policy changes which may have
25 an impact on growth or the provision of urban services. CITY
26 shall also be given a timely and reasonable opportunity of not
27 less than thirty days, but not to exceed forty-five days to
28 respond to COUNTY before the final plan amendment document(s)

1 are prepared for presentation to COUNTY's Planning Commission.
2 COUNTY agrees that it will solicit comments from CITY in the
3 preparation of any initial study required by the California
4 Environmental Quality Act undertaken within the area subject to
5 this section. If CITY determines the proposed urban
6 development may have a significant effect on the environment,
7 COUNTY shall require an environmental impact report to be
8 prepared if a fair argument can be made in support of CITY's
9 determination. The rights given CITY in this section are in
10 addition to and without limitation on any rights or remedies
11 available to CITY under law.

12 4.4 For the area depicted on the map attached hereto
13 as Exhibit "5", and as described on Exhibit "6", both of which
14 are attached hereto and incorporated by reference as if set
15 forth fully at this point:

16 COUNTY's general plan for the area described above
17 does not allow for urban type development. COUNTY reaffirms
18 that it will not allow urban type development within the area
19 described above if, on the effective date of this MOU, the
20 property is classified as MRZ-2 (mineral resource zone 2), as
21 shown on Exhibit "5", by the Mining and Geology Board of the
22 State of California.

23 4.5 For the area within CITY and within one-quarter
24 mile of any unincorporated area of COUNTY:

25 CITY agrees to notify and consult with COUNTY at staff
26 level prior to any change in a CITY plan which, if approved,
27 will allow a more intensive use. COUNTY shall be given a
28 timely and reasonable opportunity of not less than thirty days,

1 but not to exceed forty-five days, to respond to CITY before
2 the final plan change document(s) are prepared for presentation
3 to CITY's Planning Commission. CITY agrees that it will
4 solicit comments from COUNTY in the preparation of an initial
5 study required by the California Environmental Quality Act
6 undertaken for any project within the area subject to this
7 section. If COUNTY determines that the project may have
8 significant effect on the environment, CITY shall require an
9 environmental impact report to be prepared if a fair argument
10 can be made in support of COUNTY's determination. The rights
11 given COUNTY in this section are in addition to and without
12 limitation on any rights available to COUNTY under law.

13 4.55 For the area depicted on the map attached hereto
14 as Exhibit "7", and as described on Exhibit "8", both of which
15 are attached hereto and incorporated by reference as if set
16 forth fully at this point:

17 CITY's general plan for the area described above
18 does not allow for urban type development. CITY reaffirms that
19 it will not allow urban type development within the area shown
20 and described in Exhibits "7" and "8" which is inconsistent
21 with CITY's General Plan as of the effective date of this MOU.
22 Upon the annexation into CITY of territory shown and described
23 on Exhibits "5" and "6", that territory shall be planned to not
24 allow urban type development, and shall be subject to the
25 provisions of section 4.4.

26 4.6 If COUNTY adopts capital facilities fees, CITY
27 shall require that an applicant for any land use entitlement or
28 permit within CITY shall pay all COUNTY public facilities fees

1 applicable to the entitlement or permit on behalf of COUNTY.
2 At COUNTY's request, CITY shall either timely impose and
3 collect all such fees or shall require the applicant to present
4 a voucher issued by COUNTY evidencing the payment of the fees
5 directly to COUNTY. If adopted by COUNTY, the fees are to
6 mitigate the impact of development on required COUNTY
7 facilities and services including, but not limited to, the
8 criminal justice system, health, social services, parks,
9 transportation and library. If CITY imposes and collects the
10 fees on behalf of COUNTY, CITY shall transfer the fees to
11 COUNTY at the earliest time it is legally permissible to do
12 so. COUNTY may impose new fees and amend existing fees from
13 time to time in its sole discretion. COUNTY shall give CITY at
14 least thirty days' notice before implementing any new fees or
15 an amendment to existing fees. Notwithstanding this section
16 4.6 or any other provision of this MOU, COUNTY shall be solely
17 responsible for determining the amount of the fees and setting
18 them in accordance with law. This section shall not be
19 construed as a representation by CITY as to the propriety of
20 the fees or the procedures used in setting them.

21 4.7 COUNTY shall support urban unification. To this
22 end, COUNTY shall oppose the creation of new governmental
23 entities within CITY's sphere of influence, except for those
24 entities that may be necessary for health and safety purposes
25 to address service requirements that cannot be addressed by
26 annexation to CITY. As for entities for all other purposes,
27 COUNTY and CITY shall mutually agree whether to support their
28 creation. CITY and COUNTY will support transition agreements

1 with current service providers which recognize the primary role
2 of cities as providers of urban services within urban areas and
3 where current service providers of urban services have
4 participated in service master planning.

5 4.8 The provisions set forth in this article shall
6 not apply to development applications pending as of the
7 effective date of this MOU. Development applications pending
8 with COUNTY and CITY as of 5:00 p.m., on the effective date of
9 this MOU, are limited to those shown on Exhibits "9" and "10",
10 respectively, which are attached hereto and incorporated by
11 reference as if set forth fully at this point.

12 4.9 If CITY or COUNTY fails to comply with the
13 requirements of this article, the other party's remedies shall
14 include, but not be limited to, the following:

15 4.9.1 If CITY or COUNTY fails or refuses to
16 comply with the material requirements of this article,
17 and if such failure or refusal is not remedied within
18 thirty days after receipt of notice from the other
19 party, then CITY or COUNTY shall be in breach of this
20 MOU and the MOU may be terminated as provided in
21 section 8.2 below.

22 4.9.2 If CITY or COUNTY fails or refuses to
23 comply with the material requirements of this article,
24 and if such failure or refusal is not remedied within
25 thirty days after receipt of notice from the other
26 party, then the other party may maintain a court
27 action for specific performance of the provisions of
28 this article, and for declaratory relief to settle

1 disputes as to the failure of CITY or COUNTY to comply
2 with this article.

3 4.10 "Plan" or "plans", as used in this article and
4 when not preceded by the modifiers that follow, means the
5 applicable general, community, or specific plan, including its
6 policies, land uses (including the distribution, location and
7 extent thereof), goals and objectives, of the CITY or COUNTY,
8 as appropriate, either singularly or collectively.

9 4.11 "Urban development" or "Urban type development",
10 as used in this article, means development not allowed in areas
11 designated Agricultural, Rural Residential or River Influence
12 on COUNTY's general plan or its applicable community plans as
13 of the effective date of this MOU.

14 4.12 "More intensive," as used in this article in
15 reference to land use, means an increase in population density,
16 or in planned traffic generation, water consumption, sewer
17 capacity, or public safety services.

18 4.13 Whenever this article requires COUNTY and CITY
19 to mutually agree to a plan amendment, boundary change or other
20 matter, authorized representatives of CITY and COUNTY shall
21 meet within ten days after notice by the party proposing the
22 amendment, change or other matter is received by the other
23 party. At such meeting, the representatives shall determine,
24 in good faith, whether the parties will agree to the plan
25 amendment, boundary change or other matter. The meeting may be
26 continued from time to time by mutual consent of the
27 representatives, provided such continuances shall not exceed an
28 aggregate of forty-five days, except when necessary to comply

1 with any statute, regulation, plan or ordinance. Neither
2 COUNTY nor CITY shall withhold its agreement unreasonably or
3 without good cause.

4
5 ARTICLE V

6 IMPLEMENTATION OF SALES TAX

7 REVENUE COLLECTION
8

9 5.1 Pursuant to the Bradley Burns Uniform Local Sales
10 and Use Tax Law, Part 1.5, Division 2, of the Revenue and
11 Taxation Code (commencing with Section 7200), CITY will amend
12 its local sales and use tax ordinance. This amendment shall be
13 timely forwarded to the State Board of Equalization so that it
14 will become effective as of April 1, 1991. This amendment
15 shall enable COUNTY, pursuant to its sales and use tax
16 ordinance, to collect a portion of the sales and use tax
17 revenues generated within the incorporated areas of CITY in
18 accordance with the applicable rate set forth on Exhibit "11",
19 attached hereto and incorporated by reference as if set forth
20 fully at this point. CITY's ordinance shall, at all times
21 during the term of this MOU, provide, as a credit against the
22 payment of taxes due to CITY under such ordinance, an amount
23 equal to the sales and use tax then due to COUNTY under this
24 MOU.

25 5.2 Except as otherwise provided herein, CITY further
26 agrees that the amendment adopted pursuant to section 5.1 above
27 shall likewise provide for the periodic reallocation of
28 additional sales tax revenues generated within the incorporated

1 areas of CITY in accordance with the schedule set forth on
2 Exhibit "11". Each subsequent incremental reallocation shall
3 be effective on each July 1. These periodic adjustments shall
4 enable COUNTY, pursuant to its sales and use tax ordinance, to
5 collect that portion of the sales and use tax revenues
6 generated within the incorporated areas of CITY equal to the
7 applicable percentage as specified in Exhibit "11".

8 5.3 Whenever CITY proposes an annexation of
9 unincorporated territory which generates substantial sales tax
10 revenue being collected by COUNTY, CITY agrees to further amend
11 its local sales and use tax ordinance as set forth in this
12 section. This additional amendment shall become operative no
13 later than the commencement of the next calendar quarter
14 following the date upon which such annexation is certified as
15 complete by the Executive Officer of LAFCO. This additional
16 amendment shall decrease CITY's sales tax rate by a percentage
17 that would yield an amount equal to the substantial sales tax
18 revenue being collected by COUNTY in the area to be annexed as
19 of the date the annexation is certified as complete, thus
20 enabling COUNTY to increase its sales tax rate by a
21 corresponding percentage. Any such additional amendments made
22 by CITY and COUNTY pursuant to this section shall be cumulative
23 and likewise preserve intact all previous and contemporaneous
24 periodic adjustments implemented pursuant to this MOU. For
25 purposes of this article, the "substantial sales tax revenue
26 being collected by COUNTY" shall be established as of the date
27 the annexation is certified as complete pursuant to the
28 Cortese-Knox Local Government Reorganization Act, and shall be

1 based upon the most recent information from the State
2 Board of Equalization of either the most recent four consecutive
3 calendar quarters or, if information exists only for less than
4 four quarters, then that information, projected to a full four
5 calendar quarters. Further, except as necessary to comply with
6 The Standards, CITY agrees that it shall not split or separate a
7 single contiguous area into smaller annexations that have the
8 effect of creating an annexation or annexations which,
9 individually, do not generate substantial sales tax revenue, but
10 which would generate such revenue if combined. For purposes of
11 this article, the term "substantial sales tax revenue" shall be
12 defined as sales tax revenue derived from taxable sales in the
13 area annexed equal to at least:

14 5.3.1 If only information for less than four
15 consecutive calendar quarters exists, then \$100,000 in
16 taxable sales in the most recent calendar quarter for which
17 such information from the State Board of Equalization is
18 available in writing or electronic or magnetic media and,
19 projected to a full four calendar quarters, at least
20 \$400,000 in taxable sales.

21 5.3.2 If information for four consecutive calendar
22 quarters or more exists, then \$400,000 in taxable sales in
23 the most recent four consecutive calendar quarters for which
24 such information from the State Board of Equalization is
25 available in writing or electronic or magnetic media.

26 5.3.3 Beginning in the 1992-93 fiscal year, the amounts
27 set forth in subsections 5.3.1 and 5.3.2 shall be adjusted
28 each July 1 to reflect the factor of increase or decrease in

1 the consumer price index, as set forth in the Consumer Price
2 Index-California, for All Urban Consumers, California
3 Column, prepared by the State of California Department of
4 Industrial Relations, Division of Labor Statistics and
5 Research. Each annual adjustment shall be based upon the
6 most recent report available in time to allow adjustment by
7 July 1.

8 5.34 In each fiscal year succeeding the initial amendment
9 by CITY of its local sales and use tax ordinance pursuant to
10 section 5.3, CITY's sales tax rate shall be readjusted by dividing
11 the sum of the sales tax revenue generated by the annexed
12 substantial sales tax generator(s), as first determined in section
13 5.3, by the total sales tax revenue generated in the CITY, based
14 upon the most recent four consecutive calendar quarters for which
15 such information from the State Board of Equalization is available
16 in writing or electronic or magnetic media by April 1. The annual
17 amendment by CITY of its local sales and use tax ordinance
18 pursuant to this section and Exhibit "11" shall be timely
19 forwarded to the State Board of Equalization so that it will
20 become effective on July 1 of each fiscal year. COUNTY shall
21 correspondingly amend its local sales and use tax ordinance.

22 5.4 If CITY fails to adopt and implement amendments to its
23 sales tax ordinance as provided in this article, or if CITY splits
24 or separates areas into smaller areas as prohibited by section
25 5.3; and if CITY fails to remedy any such failure within thirty
26 days after CITY receives notice from COUNTY of the failure, then
27 COUNTY may terminate this MOU as provided in section 8.2 below.

28 CITY's remedy shall fully compensate COUNTY for any

1 loss of sales tax revenues occasioned by CITY's failure. Unless
2 COUNTY otherwise agrees in writing, such compensation shall occur
3 by an amendment to CITY's sales tax ordinance effective at the
4 beginning of the next calendar quarter, sufficient to permit
5 COUNTY to recoup during such calendar quarter its revenue loss
6 from sales tax occasioned by CITY's failure.

7 5.5 CITY and COUNTY further agree that the annual report of
8 the State Board of Equalization and the Department of Finance
9 Annual Population Estimates shall be used as the data source for
10 the purpose of calculating the per capita sales tax revenue
11 pursuant to this MOU.

12 5.6 The arithmetic formula(s) to be used to make the
13 calculations provided for in section 5.3 and 5.34 are illustrated
14 in Exhibit "12", attached hereto and incorporated by reference
15 herein as if set forth fully at this point. Exhibit "12" is
16 incorporated as an example only and shall not be construed to
17 expand, limit or otherwise affect the rights and duties of the
18 parties under this MOU.

19 20 ARTICLE VI

21 REDEVELOPMENT

22
23 6.1 This article shall apply to all CITY redevelopment
24 projects, as defined in section 1.7 above, approved after the
25 effective date of this MOU using COUNTY property tax increment
26 financing, unless COUNTY, CITY and AGENCY agree otherwise. This
27 article is intended to establish a process at the project planning
28 stage which will lead to mutual agreement between the CITY,

1 AGENCY, and COUNTY regarding the project, respecting CITY's and
2 AGENCY's legitimate project goals as well as the possible
3 financial burden and detriment to COUNTY. In order that
4 redevelopment projects are not unduly delayed by the processes and
5 procedures contained herein, the parties agree that the CITY and
6 AGENCY may perform environmental assessments, conduct neighborhood
7 meetings, select project area committees, participate in project
8 area committee meetings, and take other such actions which do not
9 interfere with or frustrate the requirements, processes or
10 procedures contained in this article, prior to or at the same time
11 the procedures and processes herein are being accomplished.

12 COUNTY, CITY and AGENCY shall take all actions necessary
13 under the Community Redevelopment Law, including Section 33401 of
14 the Health and Safety Code, and all other provisions of law to
15 accomplish the purposes of this article. This obligation
16 includes, but is not limited to, a finding by AGENCY that any pass
17 through of the property tax increment to COUNTY, and a finding for
18 each and every redevelopment project that the pass through of all
19 of the Library District's share of the property tax increment, is
20 necessary and appropriate to alleviate any financial burden or
21 detriment to COUNTY and the Library District caused by a
22 redevelopment project.

23 6.2 Options:

24 6.2.1 This article sets forth two ways in which a
25 redevelopment project may proceed:

26 Option A: AGENCY determines that COUNTY's share of the
27 property tax increment is not necessary for the project, and
28 it passes through to COUNTY all of COUNTY's share of the

1 property tax increment. In such case, the processes,
2 procedures, restrictions and steps provided below do not
3 apply and are not required except for the provision of
4 subsection 6.5.5.

5 Option B: AGENCY determines all or part of COUNTY's
6 share of the property tax increment may be necessary. The
7 use of the increment which would accrue to COUNTY but for
8 the redevelopment project (the "COUNTY increment") shall be
9 limited to the first twenty years of the project, or the
10 twenty year period as deferred pursuant to subsection 6.5.4,
11 and the cumulative amount of COUNTY increment used by AGENCY
12 shall be repaid to COUNTY beginning in the fifth year of the
13 redevelopment project and shall continue for the life of the
14 project, pursuant to the terms of section 6.5 of this
15 article.

16 6.2.2 Consultation Stage:

17 6.2.2.1 Prior to the determination by AGENCY that
18 Option B may be necessary, AGENCY shall notify the
19 County Administrative Officer in writing and consult
20 with COUNTY personnel.

21 6.2.2.2 This consultation period shall follow the
22 designation of the project survey area pursuant to
23 Section 33310 of the Health and Safety Code and precede
24 submission of the preliminary plan by CITY's Planning
25 Commission to AGENCY pursuant to Section 33325 of the
26 Health and Safety Code. The consultation period
27 provided in this paragraph shall commence no later than
28 fifteen days after notice to the County Administrative

1 Officer pursuant to paragraph 6.2.2.1 and shall end no
2 later than forty-five days after it commences, unless
3 extended by mutual agreement of the parties.

4 6.2.2.3 The purpose of the consultation process is,
5 to the extent possible: (1) to establish a mutual
6 understanding of the project, project objectives and
7 components, and funding needs; and, (2) to allow CITY,
8 AGENCY and COUNTY to develop a strategy to enable
9 AGENCY to complete the project without jeopardizing its
10 financial feasibility and without using COUNTY
11 increment. If the project continues to appear at this
12 stage to require some or all of the COUNTY increment,
13 the parties shall consult to the end that the project
14 area or amendment shall maximize, to the greatest extent
15 practicable, the inclusion of sales tax revenue
16 generators. To the extent reasonably practicable, the
17 project shall be designed to include the generation of
18 sales tax increment pursuant to the repayment provisions
19 of subsection 6.5.4.

20 6.3 Staff Analysis Stage:

21 After the consultation stage described in section 6.2, if
22 AGENCY preliminarily determines that the project should proceed
23 only under Option B, then, prior to the preparation of a
24 preliminary report by AGENCY pursuant to Section 33344.5 of the
25 Health and Safety Code, the following shall occur:

26 6.3.1 AGENCY shall notify COUNTY in writing that it is
27 proceeding under Option B.

28 6.3.2 AGENCY and CITY staff shall prepare the following:

1 6.3.2.1 A list of all proposed individual projects,
2 which shall be described as completely as possible, and
3 their estimated costs;

4 6.3.2.2 A schedule of the timing and sequence of
5 the proposed projects and schedule of debt;

6 6.3.2.3 Schedules for incurring debt and making
7 debt service payments, and listing revenue sources for
8 that payment with attention to project revenue in
9 subsection 6.5.3.

10 6.3.2.4 A table showing the historical property tax
11 and sales tax growth rate for the proposed project area
12 necessary to complete the calculations required by
13 subsections 6.5.2 and 6.5.4.

14 6.3.2.5 An analysis of whether the proposed project
15 area is a "blighted area", as that term is defined in
16 Sections 33031 and 33032 of the Health and Safety Code.

17 6.3.2.6 A discussion of how the proposed
18 redevelopment project may be planned in such a way so
19 that COUNTY increment will not be required, or, to the
20 greatest extent practicable to remain consistent with
21 the financial feasibility of the redevelopment project,
22 mitigate the need to use COUNTY increment. The
23 discussion shall consider how COUNTY increment shall be
24 repaid. It shall also consider reasonable program and
25 financing alternatives to using COUNTY increment.
26 Program alternatives may include, but are not limited
27 to, commercial, industrial or residential rehabilitation
28 and development programs. Financing alternatives may

1 include, but are not limited to, grants, loans,
2 developer fees, assessment districts or any other source
3 likely to be reasonably available. The discussion shall
4 consider whether COUNTY increment can be used as
5 short-term gap financing to be used only to the extent
6 necessary for making redevelopment financially feasible.

7 6.3.2.7 A discussion of how the reimbursement to
8 COUNTY of any of COUNTY increment used can be maximized,
9 especially as it relates to the inclusion of new sales
10 tax generators within the project area.

11 6.3.3 CITY and AGENCY staff shall consult with COUNTY
12 staff during the preparation of the information required
13 pursuant to paragraphs 6.3.2.1-7 above; make available to
14 COUNTY that information prepared under paragraphs 6.3.2.1-7
15 above; and shall attempt to reach agreement regarding the
16 project consistent with the purpose of the consultation
17 provided in subsection 6.2.2 above. The parties' staffs and
18 officials shall mutually cooperate to compile the
19 information required by paragraphs 6.3.2.1-7 above.

20 6.3.4 "Financial burden or detriment" means either of
21 the following:

22 6.3.4.1 A net increase in the quality or quantity
23 of a service of the affected taxing entity caused by the
24 redevelopment project.

25 6.3.4.2 A loss of property tax revenues by the
26 affected taxing entity produced by a change of ownership
27 or new construction which would have been received, or
28 was reasonably expected to have been received, by the

1 taxing entity if the redevelopment project was not
2 established.

3 6.3.4.3 The division of taxes pursuant to Section
4 33670 of the Health and Safety Code by itself shall not
5 constitute a financial burden or detriment.

6 6.4 Third Party Consultant:

7 If, within thirty days after receipt by COUNTY of the
8 information prepared under paragraphs 6.3.2.1-7 above, CITY,
9 AGENCY and COUNTY fail to reach agreement regarding the use of
10 some or all of the COUNTY increment, this fact shall be reported
11 to AGENCY prior to distribution of the preliminary report by
12 AGENCY pursuant to Section 33344.5 of the Health and Safety Code.

13 AGENCY shall notify COUNTY in writing of its intent to adopt
14 a preliminary report and the date of the intended adoption, not
15 less than thirty days prior to the intended adoption date. Not
16 less than seven days prior to the intended adoption date, COUNTY,
17 CITY or AGENCY may request that an independent third party
18 consultant be retained. The request shall be in writing and shall
19 be delivered to the chief administrative officer of each other
20 party. The request, if timely submitted, shall preclude the
21 adoption of the preliminary report until after submission of the
22 third party consultant's report to the parties.

23 COUNTY, CITY and AGENCY shall jointly select the third party
24 consultant. The selection of the third party consultant will be
25 made without delay. No party shall unreasonably withhold consent
26 to the selection. The consultant shall be charged with
27 recommending whether the proposed redevelopment project will
28 require all, part or none of COUNTY increment to accomplish the

1 specified goals of the redevelopment project.

2 6.4.1 The third party consultant shall prepare a
3 written report which shall contain discussions, analyses and
4 recommendations as to the charge and matters set forth above
5 in sections 6.3 and 6.4; discuss and determine whether the
6 proposed redevelopment project will result in a financial
7 burden or detriment to COUNTY, and, if a financial burden or
8 detriment is found, then recommend actions that may be
9 implemented by AGENCY which will alleviate or eliminate the
10 financial burden or detriment, including but not limited to
11 actions to maximize the reimbursement to COUNTY of any
12 COUNTY increment used.

13 6.4.2 The report of the third party consultant shall be
14 submitted within 120 days of selection of the third party
15 consultant. The consultant's report shall be included as an
16 integral part of AGENCY agenda materials submitted in
17 conjunction with the adoption of the preliminary report.

18 6.4.3 AGENCY shall engage and pay for the cost of the
19 third party consultant. The obligation to pay such costs
20 shall constitute an indebtedness of AGENCY; provided that if
21 the consultant is requested by COUNTY such costs shall not
22 be considered in determining AGENCY indebtedness for
23 purposes of subsections 6.5.2 or 6.5.4 below.

24 6.4.4 At a public hearing, AGENCY shall consider the
25 third party consultant's report prior to adoption and
26 distribution of the preliminary redevelopment project report
27 pursuant to Section 33344.5 of the Health and Safety Code.

28 6.4.5 CITY and AGENCY may proceed with environmental

1 assessments, neighborhood meetings, selection of project
2 area committees, project area committee meetings, and other
3 necessary or appropriate actions while the third party
4 consultant process is underway; however, CITY and AGENCY
5 shall take no final action regarding the preliminary report
6 until the process set forth in this article is completed.

7 6.5 Use of Some or All of the COUNTY Property Tax Increment:

8 The following conditions shall apply to any redevelopment
9 project which proposes to use any COUNTY increment:

10 6.5.1 For each project proceeding under Option B, when
11 adopting the redevelopment plan AGENCY shall find that the
12 use of COUNTY's share of the property tax increment is
13 necessary for the financial feasibility of the redevelopment
14 project.

15 6.5.2 Unless COUNTY approves otherwise, a redevelopment
16 project or amendment to a project may not use that
17 percentage of COUNTY increment based upon the average
18 percentage growth within the project area for the five year
19 period preceding adoption of the redevelopment plan or the
20 maximum annual inflationary rate permitted by Article 13A,
21 Section 2(b) of the California Constitution as such rate may
22 be adjusted from time to time (currently two percent),
23 whichever is greater.

24 If AGENCY elects to defer use of COUNTY increment as
25 provided in subsection 6.5.4, then the five year period in
26 which the average percentage growth is based shall be
27 correspondingly deferred so that it includes the five year
28 period immediately preceding either: (1) the fiscal year in

1 which AGENCY expends or incurs debt exceeding \$350,000
2 within that fiscal year, except as provided in subsection
3 6.4.3; or (2) three years after adoption of the
4 redevelopment plan, whichever occurs first.

5 6.5.3 Unless COUNTY approves otherwise, and in order to
6 minimize the use of any COUNTY increment, AGENCY shall first
7 use for project costs all monies it has received for
8 reimbursement of project costs.

9 6.5.4 In the event AGENCY adopts a redevelopment plan
10 which retains (hereinafter "uses" or "used") all or part of
11 COUNTY increment, use of COUNTY increment shall be limited
12 to the first twenty years of the project, and the cumulative
13 amount used shall be repaid as provided in this article
14 beginning in the fifth year of the redevelopment project and
15 shall continue for the life of the project or until the
16 cumulative amount of COUNTY increment used is fully repaid,
17 whichever is earlier.

18 AGENCY may defer the commencement of the twenty year
19 period in which it may use COUNTY's share of property tax
20 increment until either (1) the fiscal year in which AGENCY
21 expends or incurs debt exceeding \$350,000 within that fiscal
22 year, except as provided in subsection 6.4.3; or (2) three
23 years after adoption of the redevelopment plan, whichever
24 occurs first. If the commencement of the twenty year period
25 is deferred to a subsequent year as provided herein, then
26 AGENCY may also defer beginning repayment of the cumulative
27 amount of COUNTY increment used to the fifth year following
28 the commencement of the twenty year period. If AGENCY so

1 defers, repayment shall continue for the life of the project
2 plus an amount of time equal to the time in which repayment
3 was deferred or until the cumulative amount of COUNTY
4 increment used is fully repaid, whichever is earlier.

5 The amount to be repaid yearly shall be based upon the
6 annual sales tax revenues generated by all businesses within
7 the project area in excess of those in the sales tax revenue
8 base. For purposes of this subsection, the sales tax
9 revenue base shall be obtained by averaging, on an annual
10 basis, the sales tax revenue generated within the project
11 area during the three year period immediately preceding the
12 adoption of the redevelopment project. If AGENCY defers use
13 of COUNTY increment pursuant to subsection 6.5.2 and this
14 subsection as provided in the paragraph above, then the
15 years used for the calculation of the sales tax revenue base
16 shall be correspondingly deferred, and such calculation
17 shall be based upon those businesses that were in operation
18 at least one year immediately preceding termination of the
19 deferral period.

20 Except as provided in the immediately preceding
21 sentence, the calculation of the sales tax revenue base
22 shall include only those sales tax revenues generated by
23 businesses that were in operation at least one year
24 immediately preceding the adoption of the redevelopment
25 project. Further, the calculation shall not include sales
26 tax revenue generated by any business with over \$1 million
27 in taxable retail sales if that business closed one year or
28 more immediately preceding adoption of the redevelopment

1 project, unless it is replaced by another business at the
2 same location and with the same standard industrial
3 classification code, as set forth in the then current
4 edition of the Standard Industrial Classification Manual,
5 prepared by the Executive Office of the President, Office of
6 Management and Budget, within two years following adoption
7 of the redevelopment project or, if AGENCY defers use of
8 COUNTY increment as provided in subsection 6.5.2 and this
9 subsection, the termination of the deferral period.

10 The yearly repayment amount to COUNTY shall be one half
11 of the sales tax revenues in excess of those in the sales
12 tax revenue base, but shall not exceed the cumulative amount
13 of COUNTY increment actually used by the redevelopment
14 project. Repayment shall continue for the life of the
15 project or until the cumulative amount of COUNTY increment
16 used is fully repaid, whichever is earlier.

17 AGENCY and CITY shall be jointly obligated to repay
18 COUNTY the cumulative amount of COUNTY increment used by
19 AGENCY pursuant to the repayment procedure set forth in this
20 subsection. The source of funds, if any, to be used by
21 CITY for repayment shall be at the discretion of CITY.
22 Further, at the discretion of CITY and AGENCY, if both use
23 by AGENCY of COUNTY increment and repayment of COUNTY
24 increment are occurring for the same year, AGENCY may elect,
25 in lieu thereof, to cease use of COUNTY increment during
26 that year.

27 6.5.5 Each and every redevelopment plan and ordinance
28 for a redevelopment project subject to this MOU shall

1 contain a provision stating that, prior to AGENCY amending
2 or modifying the redevelopment plan or project area in a way
3 which will have a material adverse effect on the
4 redevelopment project's ability to repay COUNTY increment as
5 provided in this article or which will require use of
6 additional COUNTY increment, AGENCY shall obtain the express
7 written consent from COUNTY. The provision shall also state
8 that it shall not be amended or deleted from the
9 redevelopment plan or ordinance during the term of the
10 redevelopment project, including all extensions thereof.

11 6.5.6 Beginning in the 1992-93 fiscal year, the
12 \$350,000 amount set forth in subsections 6.5.2 and 6.5.4
13 shall be adjusted each July 1 to reflect the factor of
14 increase or decrease in the consumer price index, as set
15 forth in the Consumer Price Index-California, for All Urban
16 Consumers, California Column, prepared by the State of
17 California Department of Industrial Relations, Division of
18 Labor Statistics and Research. Each annual adjustment shall
19 be based upon the most recent report available in time to
20 allow adjustment by July 1.

21 6.6 Rights and Remedies:

22 COUNTY may, to the full extent provided by law, challenge
23 the validity of the redevelopment plan approved or adopted for the
24 redevelopment project and may exercise any and all other such
25 remedies it may have related to such redevelopment project. This
26 section shall not be construed to allow COUNTY to challenge a
27 redevelopment plan, project or project area approved prior to the
28 effective date of this MOU, except as allowed by law in the

1 absence of this MOU.

2 In addition, if any party fails or refuses to comply with a
3 material requirement of this article, and if such failure or
4 refusal is not remedied within thirty days after receipt of notice
5 from one of the other parties, the other party's cumulative
6 remedies shall include, but not be limited to, the following:

7 6.6.1 The party may terminate this MOU as provided in
8 section 8.2 below.

9 6.6.2 The party may maintain a court action for
10 specific performance of the provisions of this article, and
11 for declaratory relief to settle disputes as to the other
12 party's or parties' compliance with this article.

13 6.7 AGENCY's right to receive COUNTY increment otherwise
14 expected to be allocated to AGENCY under Section 33334.2 of the
15 Health and Safety Code is hereby waived except as otherwise set
16 forth herein. Monies allocated to COUNTY by COUNTY's
17 Auditor-Controller/Treasurer, Tax Collector include all
18 allocations of such property tax increment otherwise expected to
19 be allocated to or received by AGENCY. No portion of the property
20 tax increment allocated to COUNTY and otherwise neither allocated
21 to nor received by AGENCY shall constitute a receipt of tax
22 increment for the purposes of Section 33334.2 of the Health and
23 Safety Code and shall not otherwise be required to be deposited in
24 AGENCY's low and moderate income housing fund for purposes of
25 complying with Section 33334.2 of the Health and Safety Code.

26 6.8 With the prior express written consent of COUNTY,
27 AGENCY may subordinate its obligation to COUNTY under this MOU to
28 any existing or future pledge of tax increment to note- or

1 bond-holders or other instruments of indebtedness for the
2 redevelopment project, including any refunding obligations.
3 COUNTY is not obligated to consent to the subordination unless
4 AGENCY demonstrates, to the reasonable satisfaction of COUNTY, its
5 ability to continue to repay COUNTY increment used by AGENCY as
6 provided in this article. No subordination shall extend the
7 period in which COUNTY's increment may be used by AGENCY. No
8 subordination shall offset or diminish the obligation of AGENCY
9 and CITY to repay COUNTY increment used by AGENCY as provided in
10 this article.

11 12 13 14 15 ARTICLE VII

16 COOPERATIVE EFFORTS

17
18 7.1 CITY and COUNTY support a University of California
19 campus site in Fresno County, and shall work in cooperation to
20 ensure that a Fresno County site is chosen by the University of
21 California. Such cooperation shall include, without limitation,
22 joint COUNTY-CITY provision of infrastructure and necessary
23 support systems, such as but not limited to water resource
24 transfers, waste water treatment, streets, highways, and transit,
25 necessary to serve a campus site in Fresno County. It is further
26 agreed that the parties shall, to the extent required by the
27 California Environmental Quality Act, assist in providing for
28 mitigation of any environmental impacts identified during the

1 environmental review pursuant to that Act which are related to the
2 development of the chosen site.

3 7.2 CITY, COUNTY, and AGENCY agree to work jointly for
4 state legislation and appropriations that would improve the fiscal
5 condition of CITY, COUNTY, and AGENCY.

6 7.3 CITY and COUNTY recognize that there may be a number of
7 programs and services which could be consolidated, merged, or
8 otherwise combined in order to improve efficiency and
9 effectiveness, providing an overall savings to taxpayers. To this
10 end, the City Manager and the County Administrative Officer shall
11 develop, by January 15, 1992, a list of those programs and
12 services which they believe can be combined to increase efficiency
13 and effectiveness. Within thirty days after the list is complete,
14 this list, together with recommended staff review teams and
15 timetables, will be presented to the parties' respective governing
16 bodies for prioritization and direction.

17 7.4 Upon certification by the Executive Officer of LAFCO
18 that annexation of the property located at the northeast corner of
19 Bullard and Glenn Avenues is complete, which property is also
20 known as 50 West Bullard Avenue, CITY shall dismiss with prejudice
21 the following actions against COUNTY and other parties: (1) City
22 of Fresno v. County of Fresno, et al., Fresno County Superior
23 Court Case No. 406884-7 (Court of Appeal Civil No. F014444); (2)
24 City of Fresno v. County of Fresno, et al., Fresno County Superior
25 Court Case No. 421318-7; (3) City of Fresno v. County of Fresno,
26 et al., Fresno County Superior Court Case No. 423840-8. Each
27 action shall be dismissed in its entirety and with prejudice.
28 CITY, COUNTY and other COUNTY defendants shall each bear their own

1 costs and attorneys' fees.

2
3 ARTICLE VIII

4 GENERAL PROVISIONS

5
6 8.1 Term of MOU:

7 This MOU shall commence as of the date of execution by
8 COUNTY, CITY and AGENCY, which date is stated at the beginning of
9 this MOU (the "effective date"). Articles II, III, IV, V and VII
10 shall remain in effect for a period of fifteen years after the
11 effective date. Articles I, VI and VIII shall remain in effect
12 for the life of all redevelopment projects which are either
13 established or amended pursuant to article VI, plus an amount of
14 time equal to the time in which repayment of AGENCY's use of
15 COUNTY increment was deferred. Further, the post-termination
16 remedies and provisions set forth in sections 8.4 and 8.5 of this
17 MOU shall survive its termination.

18 8.2 Termination:

19 If all or any material portion of this MOU is declared
20 invalid or inoperative by a court of competent jurisdiction, or if
21 any party to this MOU fails to comply with any of its material
22 obligations hereunder, and does not correct such noncompliance
23 within the time specified in this MOU, then in such event, this
24 entire MOU, as well as any ancillary documents entered into by the
25 parties in order to fulfill the intent of this MOU, may be
26 terminated as provided in this section. Upon termination, this
27 MOU shall be of no force and effect, except as provided by
28 sections 8.4 and 8.5.

1 Except for the immediate termination as to a particular
2 annexation as provided in the third and fourth paragraphs of
3 section 2.3, prior to this MOU being terminated by COUNTY for
4 failure by CITY or AGENCY to comply with its material obligations
5 hereunder, COUNTY shall provide notice to CITY and AGENCY of such
6 failure, and CITY and AGENCY shall comply with the specified
7 obligations terms and conditions of this MOU within thirty days of
8 receipt of notice. If CITY or AGENCY complies within the thirty
9 day period, this MOU shall remain in full force and effect. If
10 CITY or AGENCY fails to comply within the thirty day period, then
11 CITY or AGENCY shall be in breach of this MOU and COUNTY may
12 terminate this MOU as provided herein. During the thirty day
13 notice period and until CITY or AGENCY certifies in writing that
14 it is in compliance and COUNTY agrees in writing, no master
15 property tax transfer agreement, as contemplated by subdivision
16 (d) of Section 99 of the Revenue and Taxation Code, shall exist
17 between COUNTY and CITY with respect to any pending annexations.

18 In like manner, CITY and AGENCY shall give COUNTY thirty
19 days written notice and opportunity to cure any alleged material
20 noncompliance, breach, or default of this MOU on the part of
21 COUNTY, except that the last sentence of the preceding paragraph
22 shall not apply.

23 The specific references in any other provisions of this MOU
24 as to cause for termination shall not be construed as either
25 statements of the sole grounds for termination or statements of
26 those failures to comply considered by the parties to be
27 material. Rather, as set forth in this section, the failure of a
28 party to comply with any material obligation imposed by this MOU

1 which is not remedied within thirty days shall be a material
2 breach and be a ground for termination.

3 8.3 Renegotiation Following Court Action:

4 If this MOU is terminated by reason of court action, the
5 parties agree to negotiate in good faith to achieve as soon as
6 possible a new MOU consistent with fundamental objectives of this
7 MOU.

8 8.4 Penalty for CITY's Termination:

9 If CITY terminates this MOU for any reason other than those
10 stated in sections 4.9, 6.6 or 8.2, or breaches this MOU thereby
11 causing COUNTY to terminate this MOU, then COUNTY shall be
12 entitled to increase its sales tax rate by one-half of one percent
13 (.005) above its tax in place at the time of the termination,
14 beginning the next calendar quarter following CITY's termination
15 or the expiration of thirty days written notice of breach to
16 CITY.

17 8.5 Penalty for COUNTY's Termination:

18 If COUNTY terminates this MOU, for any reason other than
19 those stated in sections 2.3, 4.9, 5.4, 6.6 or 8.2, or breaches
20 this MOU thereby causing CITY to terminate this MOU, then COUNTY
21 shall reduce its sales tax rate to one percent (.01), beginning
22 the next calendar quarter following COUNTY's termination or the
23 expiration of thirty days written notice of breach to COUNTY.

24 8.6 Obligation to Pay Back Increment Used:

25 Notwithstanding any provision of this MOU, the obligation of
26 AGENCY and CITY to pay back to COUNTY the cumulative amount of
27 COUNTY increment used by AGENCY for a redevelopment project
28 subject to article VI shall continue until COUNTY is fully repaid

1 as provided in that article. This obligation shall continue
2 irrespective of the termination or expiration of this MOU, for any
3 reason whatsoever, by any party.

4 8.7 Implementation of Penalties:

5 The parties covenant to make necessary changes in their
6 respective sales tax ordinances and take all other actions
7 reasonably necessary to effectuate the intent of sections 8.4 and
8 8.5, notwithstanding termination of this MOU.

9 8.8 Termination Due to Changes in Law:

10 One purpose of this MOU is to alleviate in part the revenue
11 shortfall, if any, experienced by COUNTY which may result from
12 CITY's annexation of revenue-producing or potentially
13 revenue-producing properties located within the unincorporated
14 area of COUNTY, and from CITY's and AGENCY's redevelopment
15 projects. Another purpose of this MOU is to enable CITY and
16 AGENCY to proceed with territorial expansion, economic growth and
17 community redevelopment consistent with the terms of existing law
18 as well as to maximize each party's ability to deliver essential
19 governmental services. In entering into this MOU, the parties
20 mutually assume the continuation of the existing state statutory
21 schemes relating to the distribution of available tax revenues to
22 local government, community redevelopment, annexations, planning
23 and the other material matters set forth in this MOU, and that
24 assumption is a basic tenet of this MOU. Accordingly, it is
25 mutually understood and agreed that this MOU may, by mutual
26 agreement, be terminated should changes occur in state statutory
27 law, court decisions or state administrative interpretations which
28 negate the basic tenet of this MOU.

1 8.9 Modification:

2 This MOU and any of the provisions, covenants and conditions
3 set forth herein may be modified or amended only by a writing duly
4 authorized by the respective governing bodies of COUNTY, CITY and
5 AGENCY and executed by each party's authorized representative.

6 8.10 Enforcement:

7 COUNTY, CITY and AGENCY each acknowledge that this
8 instrument cannot bind or limit themselves or each other or their
9 future governing bodies in the exercise of their discretionary
10 legislative power. However, each binds itself that it will,
11 insofar as is legally possible, fully carry out the intent and
12 purposes hereof, if necessary by administrative action independent
13 of ordinances, and that this MOU may be enforced by injunction to
14 the extent allowed by law. This provision shall not be construed
15 to preclude termination of this MOU because of failure of a party
16 to perform a legislative act in accordance with provisions of this
17 MOU.

18 8.11 Entire MOU; Supersession:

19 With respect to the subject matter hereof only, this MOU
20 supersedes any and all previous negotiations, proposals,
21 commitments, writings, and understandings of any nature whatsoever
22 between COUNTY, CITY and AGENCY except as otherwise provided
23 herein. This MOU does not supersede the "Joint Resolution on
24 Metropolitan Planning" except where that resolution is
25 inconsistent with this MOU. This MOU does not supersede existing
26 written agreements among COUNTY, CITY and AGENCY pertaining to
27 redevelopment, except to the extent redevelopment projects, as
28 defined in this MOU, trigger the application of article VI of this

1 MOU. This MOU does not supersede the 1977 "Agreement Between the
2 County of Fresno and the City of Fresno Relating to Municipal
3 Court Fines and Forfeitures."

4 8.12 Notice:

5 All notices, requests, certifications or other
6 correspondence required to be provided by the parties to this MOU
7 shall be in writing and shall be personally delivered or delivered
8 by first class mail to the respective parties at the following
9 addresses:

10 COUNTY

11 County Administrative Officer
12 County of Fresno
13 Hall of Records, Room 300
2281 Tulare Street
Fresno, CA 93721

CITY and AGENCY

City Manager/Exec. Director
City of Fresno
City Hall
2326 Fresno Street
Fresno, CA 93721

14 Notice by personal delivery shall be effective immediately upon
15 delivery. Notice by mail shall be effective upon receipt or three
16 days after mailing, whichever is earlier.

17 8.13 Other Remedies:

18 Except as otherwise provided in this MOU, the parties may
19 enforce this MOU in any other manner authorized by law.

20 8.14 Approval, Consent and Agreement:

21 Wherever this MOU requires a party's approval, consent or
22 agreement, the party shall make its decision to give or withhold
23 such approval, consent or agreement in good faith, and shall not
24 withhold such approval, consent or agreement unreasonably or
25 without good cause.

1 IN WITNESS WHEREOF, the parties hereto have executed this
2 MOU in the County of Fresno, State of California, on the dates set
3 forth above.
4

5 COUNTY OF FRESNO, a Political Subdivision of
6 the State of California ("COUNTY")

7 BY: *[Signature]*
8 Chairman, Board of Supervisors

9 CITY OF FRESNO, a Municipal Corporation of
10 the State of California ("CITY")

11 BY: *Karen Humphrey*
12 Mayor
13 City of Fresno

14
15
16
17 REDEVELOPMENT AGENCY OF THE CITY OF
18 FRESNO

19 BY: *Karen Humphrey*
20 Chairman

21 BY: *[Signature]*
22 Secretary

23 ATTEST:
24 Shari Greenwood, Clerk to
25 the Board of Supervisors

26 BY: *Shari Greenwood*
27 Deputy

28 ATTEST:

[Signature]
City Clerk
City of Fresno

1 APPROVED AS TO LEGAL FORM:

2 HARVEY WALLACE, CITY ATTORNEY
3 CITY OF FRESNO

4 BY: Harvey Wallace

5 APPROVED AS TO ACCOUNTING FORM:

6 GARY W. PETERSON, AUDITOR-CONTROLLER/TREASURER
7 TAX COLLECTOR

8 BY: Gary W. Peterson

9 REVIEWED AND RECOMMENDED FOR APPROVAL:
10 RICHARD D. WELTON, DIRECTOR,
11 PUBLIC WORKS & DEVELOPMENT SERVICES DEPARTMENT

12 BY: Richard D. Welton

13 APPROVED AS TO LEGAL FORM

14 MAX E. ROBINSON, COUNTY COUNSEL

15 BY: Max E. Robinson

16 GK:1168

EXHIBIT 1

STANDARDS FOR ANNEXATION

- The proposal must be consistent with the adopted sphere of influence of the city and not conflict with the goals and policies of the Cortese-Knox Act.
- The proposal must be consistent with city general and specific plans, including adopted goals and policies.
- Pursuant to CEQA, the proposal must mitigate any significant adverse effect on continuing agricultural operations on adjacent properties, to the extent reasonable and consistent with the applicable general and specific plan.
- A proposal for annexation is acceptable if one of the following conditions exist:
 1. There is existing substantial development provided the City confines its area requested to that area needed to include the substantial development and create logical boundaries.
 2. Development exists that requires urban services which can be provided by the City.
 3. If no development exists, at least 50% of the area proposed for annexation has:
 - (i) Approved tentative subdivision map(s) (S.F. residential)
 - (ii) Approved site plan (for other uses)
- The proposal would not create islands. Boundaries must ultimately minimize creation of peninsulas and corridors, or other distortion of boundaries.

For any of the following circumstances a proposal for annexation is presumed to comply with all standards for annexation:

- The request for annexation is by a city for annexation of its own publicly-owned property for public use.
- The request for annexation is by a city in order to facilitate construction of public improvements or public facilities which otherwise could not be constructed.
- The request for annexation is to remove an unincorporated island or substantially surrounded area.
- The request for annexation is for an industrial or regional commercial project for which a development application has been made and no significant adverse environmental impact will result that cannot be mitigated or overridden by a necessary public purpose. Condition(s) assuring the financing or completion of necessary development infrastructure before completion of annexation shall be made a part of the proposal.
- The annexation is intended to mitigate or otherwise comply with standards/conditions required by another agency with respect to another development/annexation.

A RESOLUTION OF THE CITY OF FRESNO
APPROVING THE JOINT RESOLUTION ON
METROPOLITAN PLANNING

WHEREAS, the Cities of FRESNO AND CLOVIS are municipal corporations in the State of California incorporated under the laws of said State with CLOVIS functioning under the general laws thereof and FRESNO being a Charter City, and the COUNTY OF FRESNO is a Charter County within the State of California; and

WHEREAS, it is deemed to be in the public interest that these three entities work cooperatively and agree to meet at least annually regarding matters related to urban growth and development in the Fresno-Clovis Metropolitan Area; and

WHEREAS, it is the intent of the Cities of Fresno and Clovis and the County of Fresno to administer local governmental services in a prudent and efficient manner; and

WHEREAS, the three agencies recognize that many of the actions described in this resolution will require amendments to their General Plans and that such amendments will be subject to the required environmental documentation and public hearing processes:

THEREFORE, BE IT RESOLVED THAT THE COUNTY OF FRESNO AND THE CITIES OF FRESNO AND CLOVIS AGREE THAT:

1. The Cities of Fresno and Clovis shall prepare General Plan updates for their planning areas within the proposed urban boundary shown on exhibit "A" (hereinafter referred to as the Urban Boundary), and Fresno County shall initiate an amendment to its General Plan to include that Urban Boundary. The final Urban Boundary shall be adopted as part of the required General Plan processes by each jurisdiction.


The Cities of Fresno and Clovis and the County of Fresno do hereby express their intention not to amend the final Urban Boundary unless there is agreement among the affected parties to the change; and
2. The Urban Boundary shall be reviewed and updated a minimum of ten years; and
3. The Cities of Fresno and Clovis have the primary responsibility for comprehensive planning within the Urban Boundary and as part of their planning process may choose to designate some areas within the Urban Boundary as appropriate for interim agriculture, rural density, or permanent open space; and
4. The Cities of Fresno and Clovis and the County of Fresno shall recommend to the Local Agency Formation Commission (L.A.F.C.O.) that it adopt as its Sphere of Influence Line for the Cities of Fresno and Clovis a line coterminous with the Urban Boundary. Any changes resulting from the plan adoption process shall also be directed to L.A.F.C.O. for similar action; and
5. The Urban Boundary shall be based on the accommodation of a population of 588,000 persons for the planned urban areas of Fresno and Clovis; and
6. The County of Fresno does hereby initiate for consideration during its first General Plan amendment cycle of 1983, an amendment to its General Plan to revise the Fringe Area Policies to restore the referral policy for the Cities of Fresno and Clovis; and
7. In order to promote increased efficiency and economy in the provision of urban services and housing opportunity, and to

cc rve productive agricultural lan. the County shall support the City-adopted land use plans within the Urban Boundaries of the Cities of Fresno and Clovis.

8. The Cities shall continue to make an effort to incorporate Fresno County land use policies for established neighborhoods and develop policies for protection of agriculturally related industrial operations at the urban interface; and
9. Until the adoption of General Plan updates by the Cities of Clovis and Fresno, the County of Fresno expresses its intent that all unincorporated areas not designated urban or not having an urban zone within the Urban Boundary shall be zoned AL-20 by the County of Fresno, and all properties zoned AE-20 shall retain those zones; and
10. The County shall institute procedures to amend the AL-20 zone district to eliminate those uses not compatible with the holding zone concept; and
11. Within the Urban Boundary and two miles beyond, each party to this agreement shall, in the early stages of preparation of land use and circulation proposals and General Plan amendments consult at the staff level in such fashion as to provide meaningful participation in the policy formulation process, and shall likewise consult on other policy changes which may have an impact on growth or the provision of urban services. Those parties shall also be given the opportunity to respond to the jurisdiction proposing the change before the final document is prepared for presentation to the hearing bodies; and
12. After the Cities of Fresno and Clovis adopt updated General Plans, the County shall initiate an amendment to the Fresno County General Plan to provide that the area planned by the Cities of Fresno and Clovis for eventual urban uses and currently designated on the County General Plan as rural residential shall be reserved for urban uses by the County by rezoning to agricultural zone districts. Further, the County hereby expresses its intent not to add additional or expand existing rural residential areas adjacent to the Urban Boundary without concurrence of the affected City; and
13. Within those areas currently designated as Rural Residential in the County General Plan and which fall within the Cities' Urban Boundary general or community plans shall be prepared by the Cities in cooperation with the County which address the retention of rural residential uses and/or the eventual conversion of that land to higher density uses; and
14. Urban development and the provision of urban services within the Urban Boundaries shall be the responsibilities of the Cities of Fresno and Clovis; and
15. The County will support urban unification; to this end, the County shall oppose the creation of new governmental entities within the Urban Boundary and will support efforts to consolidate existing special purpose districts; and
16. The County of Fresno shall initiate proceedings to consider the dissolution of those County Water Works Districts for which the Board of Supervisors is the governing body that are situated within the Urban Boundary of the City of Fresno to thereby transfer such responsibility of providing water to that City; and
17. The Cities of Fresno and Clovis shall emphasize the inhabited annexation process and shall work with the established neighborhoods to encourage a negotiated unification of the existing urbanized area. Such a program shall stress the clarification and resolution of identified neighborhood concerns; and

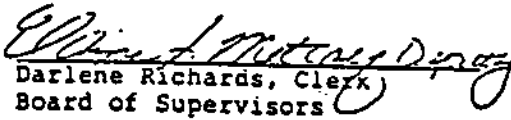
18. For all annexations, the Cities of Fresno and Clovis shall provide to the property owners directly affected, an appropriate program which describes the service delivery program and the existing land use plan, including any proposed changes filed with the City or publicly proposed for the neighborhood; and
19. The City of Fresno shall consult with the County of Fresno at the staff level when developing proposed annexation boundaries, and such boundaries shall be configured to create logical annexations; and
20. The City of Fresno shall agree that, when an annexation is based on a County referral, the City will confine its request to that area necessary to establish legally required contiguity, or as required by L.A.F.C.O.; and
21. The Cities of Fresno and Clovis shall request, jointly with the County, that L.A.F.C.O. adopt a policy that that body will not consider requests to amend the Sphere of Influence unless the County and appropriate city or cities have agreed to the change; and
22. During the general plan update process the three agencies shall discuss the policy ramifications of major sewer facilities. Following the adoption of the general plans of the Cities of Fresno and Clovis, the two cities shall meet to work out a plan for the financing and construction of the Fowler sewer trunkline system or an alternative means of sewerage the northeastern portion of the planned urban area.

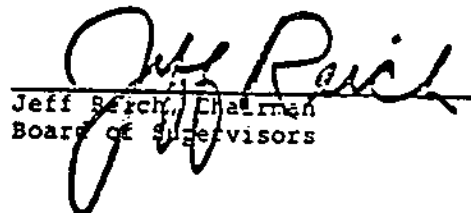
ATTEST:


Jacqueline L. Ryle, City Clerk
City of Fresno


Daniel K. Whitehurst, Mayor
City of Fresno

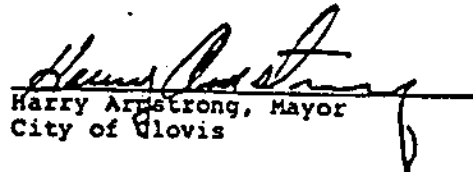
ATTEST:


Darlene Richards, Clerk
Board of Supervisors


Jeff Berch, Chairman
Board of Supervisors

ATTEST:

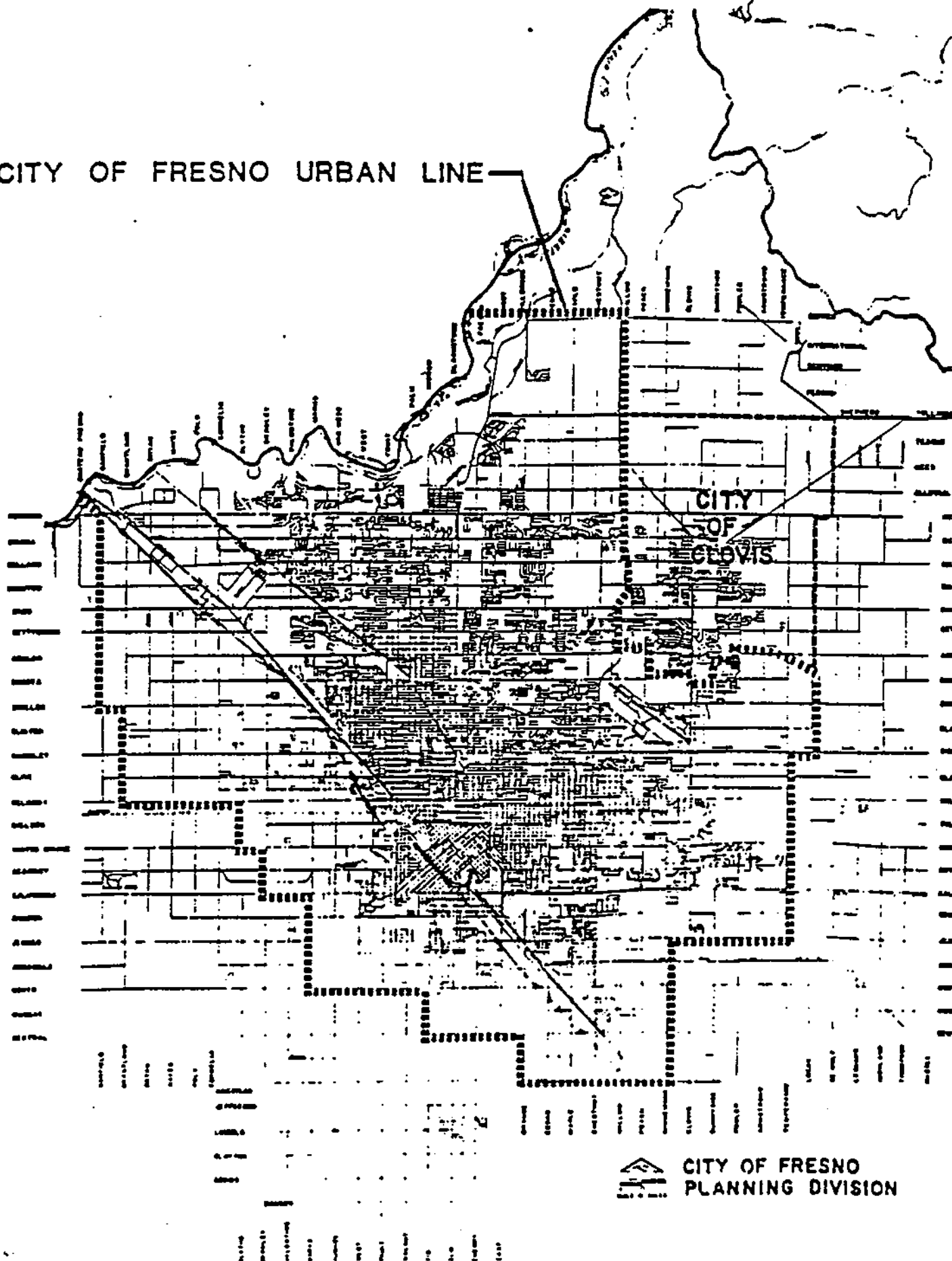

Michael Prandini, City Clerk
City of Clovis


Harry Armstrong, Mayor
City of Clovis

3/31/83

PROPOSED URBAN BOUNDARY


CITY OF FRESNO URBAN LINE



CITY OF FRESNO
PLANNING DIVISION

18. For all annexations, the Cities of Fresno and Clovis shall provide to the property owners directly affected, an appropriate program which describes the service delivery program and the existing land use plan, including any proposed changes filed with the City or publicly proposed for the neighborhood; and
19. The City of Fresno shall consult with the County of Fresno at the staff level when developing proposed annexation boundaries, and such boundaries shall be configured to create logical annexations; and
20. The City of Fresno shall agree that, when an annexation is based on a County referral, the City will confine its request to that area necessary to establish legally required contiguity, or as required by L.A.F.C.O.; and
21. The Cities of Fresno and Clovis shall request, jointly with the County, that L.A.F.C.O. adopt a policy that that body will not consider requests to amend the Sphere of Influence unless the County and appropriate city or cities have agreed to the change; and
22. During the general plan update process the three agencies shall discuss the policy ramifications of major sewer facilities. Following the adoption of the general plans of the Cities of Fresno and Clovis, the two cities shall meet to work out a plan for the financing and construction of the Fowler sewer trunkline system or an alternative means of sewerage the northeastern portion of the planned urban area.


ATTEST:


Jacqueline L. Ryle, City Clerk
City of Fresno


Daniel K. Whitehurst, Mayor
City of Fresno


ATTEST:


Darlene Richards, Clerk
Board of Supervisors


Jeff Berch, Chairman
Board of Supervisors

ATTEST:


Michael Prandini, City Clerk
City of Clovis


Harry Armstrong, Mayor
City of Clovis

3/31/83

EXHIBIT 3

Municipal Code City of Fresno

Sec. 12-403-C

to him, shall determine if he is able to find that the proposed change of zone district is consistent with the land use, density, intensity, objectives, policies, and programs specified in the general plan and any applicable community plan and specific plan, and shall give such notices as required.

- C. DETERMINATION OF CONSISTENCY. A zone district (either the existing zone district identified on the Official Zone Map or the proposed zone district) shall be determined consistent with the land use designated by the general plan or an applicable community plan when such zone district is specified as consistent in the corresponding plan land use designation as prescribed in the table set forth in Section 12-403-C-1, or if the planned land use consistency criteria set forth in Section 12-403-C-2 are met.

1. Zoning District Consistency Table

Plan Designation	Consistent Zone District	Consistency Density
Residential Uses		
Rural	AE-5, AE-20, R-A,	0-1.21 Units Per Acre
Low	R-1-A, R-1-AH, R-1-E, R-1-EH	0-2.18 Units Per Acre
Medium Low	R-1-B, R-1-C, R-1-B/PD	2.19-4.98 Units Per Acre
Medium	R-1, MH, R-1-C/PD, R-1/PD	4.99-10.37 Units Per Acre
Medium High	R-2-A, R-2, T-P, R-R*	10.38-18.15 Units Per Acre
High	R-3-A, R-3, R-4t, C-P*	18.16-43.56 Units Per Acre
Commercial Uses		
Neighborhood	C-1, C-L	
Community	C-2	
Regional	C-3, C-4	
General, Heavy, Strip	C-4tt, C-5, C-6, C-R	
Office	RP-L, R-P*, C-P** R-P, Planned Office Development C-P, Planned Office Development	
Commercial-Recreation	C-R	

Supp. No. 2-87 (8-7-87)

440.174-3

Plan Designation	Consistent Zone District	Consistency Density
Industrial Uses		
Light	C-M, M-1, M-1-P	
Heavy	M-2, M-3	
Other Uses		
Open Space	O, AE-20	
Agricultural	O, AE-20	

* In the R-P or C-P zone district, pursuant to a conditional use permit for a residential mixed use development, a maximum of thirty-five percent of the property may be developed with the non-residential uses permitted in those zone districts.

** In the R-P or C-P zone district, pursuant to a conditional use permit for a residential mixed use development, a maximum of thirty-five percent of the property may be developed with the residential uses permitted in those districts.

† Thirty or more dwelling units per acre in the R-4 district only, subject to a conditional use permit.

†† Within the Central Area only, bounded by Freeways 99, 180 and 41.

2. Planned Land Use Consistency Criteria. A proposed change of zone district shall be determined consistent with the corresponding land use designated by the general plan or an applicable community plan, subject to the following conditions:

a. For a zone district change in connection with a single family development that is not a planned development, a subdivision map depicting the proposed lots shall be submitted. For a zone district change in connection with a nonclustered planned development, a development plan shall be submitted, but the landscape plan will not be required. For a zone district change in connection with any type of development other than those specified above, a full development plan shall be submitted.

b. The following criteria shall be met:

(1) For residential uses, the proposed change of zone district shall be conditioned on the record owner executing a covenant running with the land whereby the maximum density of the plan designation for the site is not exceeded. In cases where a requested zone district would allow a lower density than what is designated in applicable plans, the change of zone district shall be conditioned on the record owners executing a covenant running with the land whereby no less than the minimum density of the next lowest land use designation is permitted.

- (2) For non-residential uses, the proposed change of zone district shall be conditioned on the record owner executing a covenant running with the land whereby the land use will be only that use specified by the applicable plans.
- (3) The proposed change of zone district and use shall not adversely affect the relationship between uses and densities designated by the applicable plans for surrounding properties. The Director's determination under this subparagraph shall be subject to appeal to the Commission pursuant to Section 12-401-H. The decision of the Commission shall be subject to appeal to the Council pursuant to Section 12-401-H.
3. The consistency of a density with applicable plans shall be determined by considering only the area of land proposed for development, excluding the area of existing adjacent public streets, and excluding the area of rights-of-way offered for dedication to the city or required by the city for streets or other purposes in connection with the division of land, or as condition of approval of the proposed development. However, for residential subdivisions (exclusive of planned development projects as defined by Section 12-306-N-21), the area of right-of-way required for dedication for local streets shall be considered a part of the land area for the purpose of calculating density.
4. The number of units per acre prescribed in the applicable plans for an existing or proposed zone district, unless a transfer is approved through the processing of a planned development which includes all zone districts involved in the proposed transfer.
5. If the Director finds consistency in accordance with the provisions of this Section 12-403-C, he shall indicate such determination in writing and shall give notice of the proposed change of zone district and of his preliminary determination pursuant to Section 12-401-F.2 (mailing).
 - a. Effect of Request for Hearing. If a written request for hearing is filed by any interested person with the Director within the prescribed time period, then proceedings shall be conducted pursuant to Section 12-404.
 - b. Effect of No Request for Hearing. If no request for hearing is filed, the proposed change of zone district shall either be presented to the Council for final action or scheduled for the Commission's consideration at the Director's discretion. In either case, the proceedings shall be conducted pursuant to applicable provisions of Section 12-404. The Council may enact into ordinance, in accordance with its normal procedure, any such proposed change of zone district or, subject to Section 12-403-E, any alternative zone district allowed by Section 12-404-I; or may disapprove the matter. In the event the Council fails to act on a matter within six months after it is presented to the Council by the Director, or within any extension of time granted by the Director (not exceeding an additional six months) or by the Council, the matter shall be deemed disapproved without prejudice.


~~D. INABILITY TO FIND CONSISTENCY. If the Director is unable to find such consistency, he shall so determine in writing and, in the case of proceedings initiated by application, he shall give notice of his determination pursuant to Section 12-401-C-2 (mailing-applicant).~~

~~1. Termination of Applicant-Initiated Proceedings. In the case of proceedings initiated by application, proceedings shall be suspended pending the filing of a plan amended application or shall be terminated without prejudice. Upon termination, part of the fee shall be returned as prescribed in Section 12-410.~~

E. CONSISTENCY MANDATE. Notwithstanding any other provision of this Code, the Council shall not enact an ordinance which would change a zone district or would permit a density or use which would not be consistent with the land use designated in any applicable plan. (Rep. and Added Ord. 68-57, 1968; Am. Ord. 68-151, 1968; Am. Ord. 87-59, § 8, eff. 6-26-87).

~~SECTION 12-404. DISTRICT AMENDMENT; PROCEDURE. Except as provided in Section 12-403, this section shall govern the procedure for the enactment of an ordinance changing the zoning district of property:~~

~~A. INITIATION. Proceedings for the redistricting of property may be initiated only pursuant to Section 12-401-A-1 (Council resolution).~~

- 
3. Director Action. The written action of the Director, filed of record in his office.
4. Application. Filing with the Director an application signed by one or more of the record owners of the parcel of property which is the subject of the application or an agent of the owner authorized in writing. In the event more than one parcel of land will be included in a proposed plan or plan amendment, owners of parcels representing at least sixty percent of the land area involved must sign the application. The names of all record owners of all land involved must be stated. If an applicant is not the owner, his relationship to the land or owner must be stated.
- B. A redevelopment plan, an amendment to a redevelopment plan, or the repeal of any plan shall only be initiated by adoption of a resolution of initiation by the Council.
- C. The initiation of a specific plan or an amendment to a specific plan shall be deemed an initiation of an amendment to the community plan, if any, in which the specific plan area is located.
- D. The initiation of a community plan or an amendment to a community plan for property which is twenty acres or greater in size shall be deemed an initiation of an amendment to the general plan.
- E. A plan amendment determined by the Director to be substantially the same as a previously denied plan amendment shall not be initiated by the Director or by application during a period of one year from the date of the denial of the previous plan amendment. (Added Ord. 87-59, § 10, eff. 6-26-87).

SECTION 12-607. PREPARATION OF A PLAN, AMENDMENT TO A PLAN, OR REPEAL OF A PLAN.

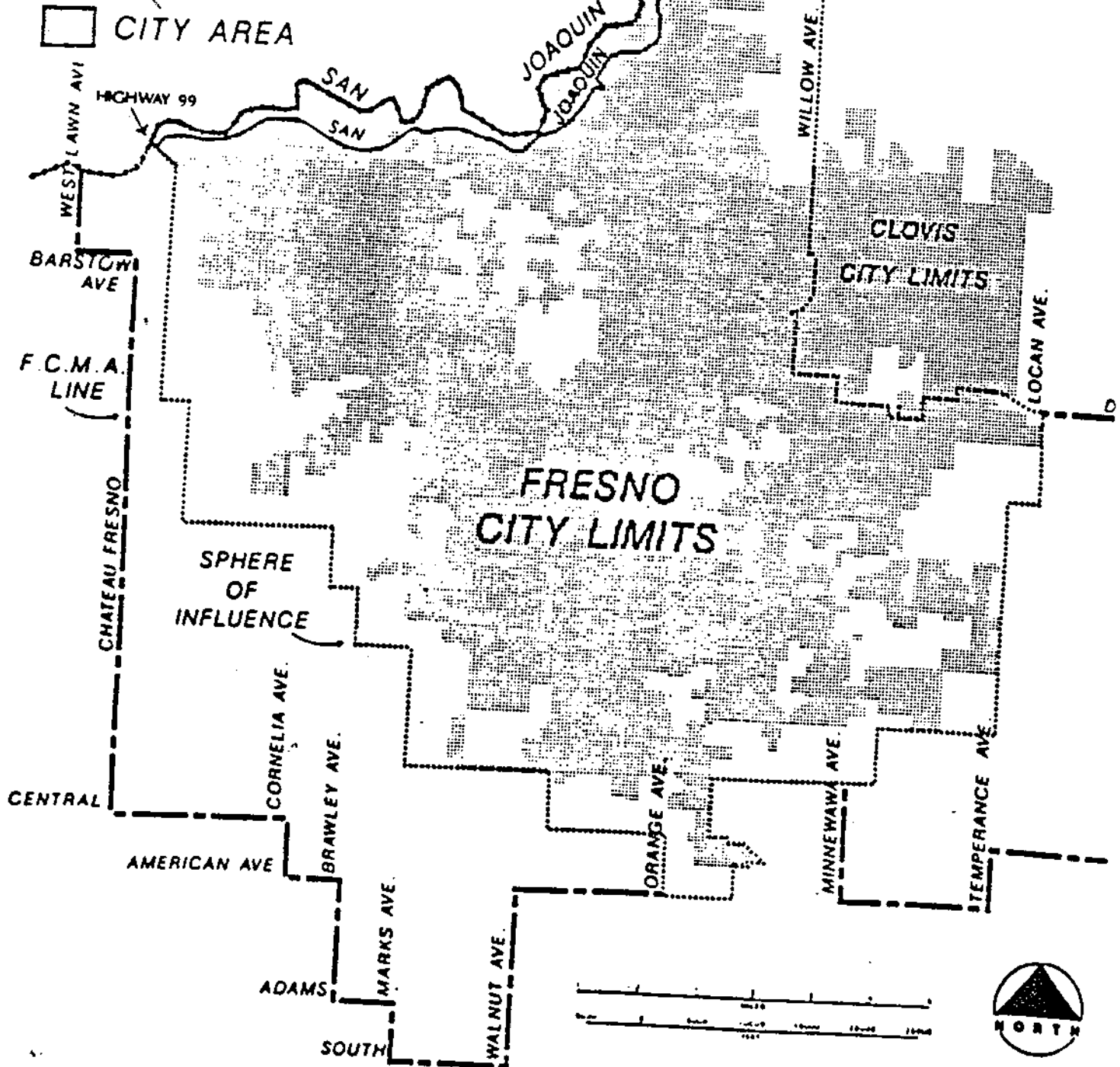
- 12-403-6
- 1
- A. GENERAL PROVISIONS. In order to further the purposes of this article, the following general provisions shall apply:
1. An application for a development entitlement which proposes a land use or density which is inconsistent with the land use element and designation of an applicable plan or does not conform to other provisions of an applicable plan shall not be granted unless a plan amendment which renders the requested development entitlement consistent or conforming is first approved. This requirement shall not apply to applications for conditional use permits or variances affecting property approved for zoning which is not consistent with applicable plans, where such zoning was approved prior to the effective date of this article.
 2. Modifications to an initiated specific plan, community plan, or general plan which have not been the subject of staff analysis and environmental review shall not be heard or considered by the Commission or the Council.
 3. The adoption of a general plan shall not automatically amend a community plan or a specific plan.

MEMORANDUM OF UNDERSTANDING BETWEEN
THE COUNTY OF FRESNO,
THE CITY OF FRESNO AND
THE FRESNO REDEVELOPMENT AGENCY
AUGUST 1990

EXHIBIT 4

LEGEND

- FRESNO SPHERE OF INFLUENCE
- SAN JOAQUIN RIVER AREA
- F.C.M.A. LINE
- CITY AREA



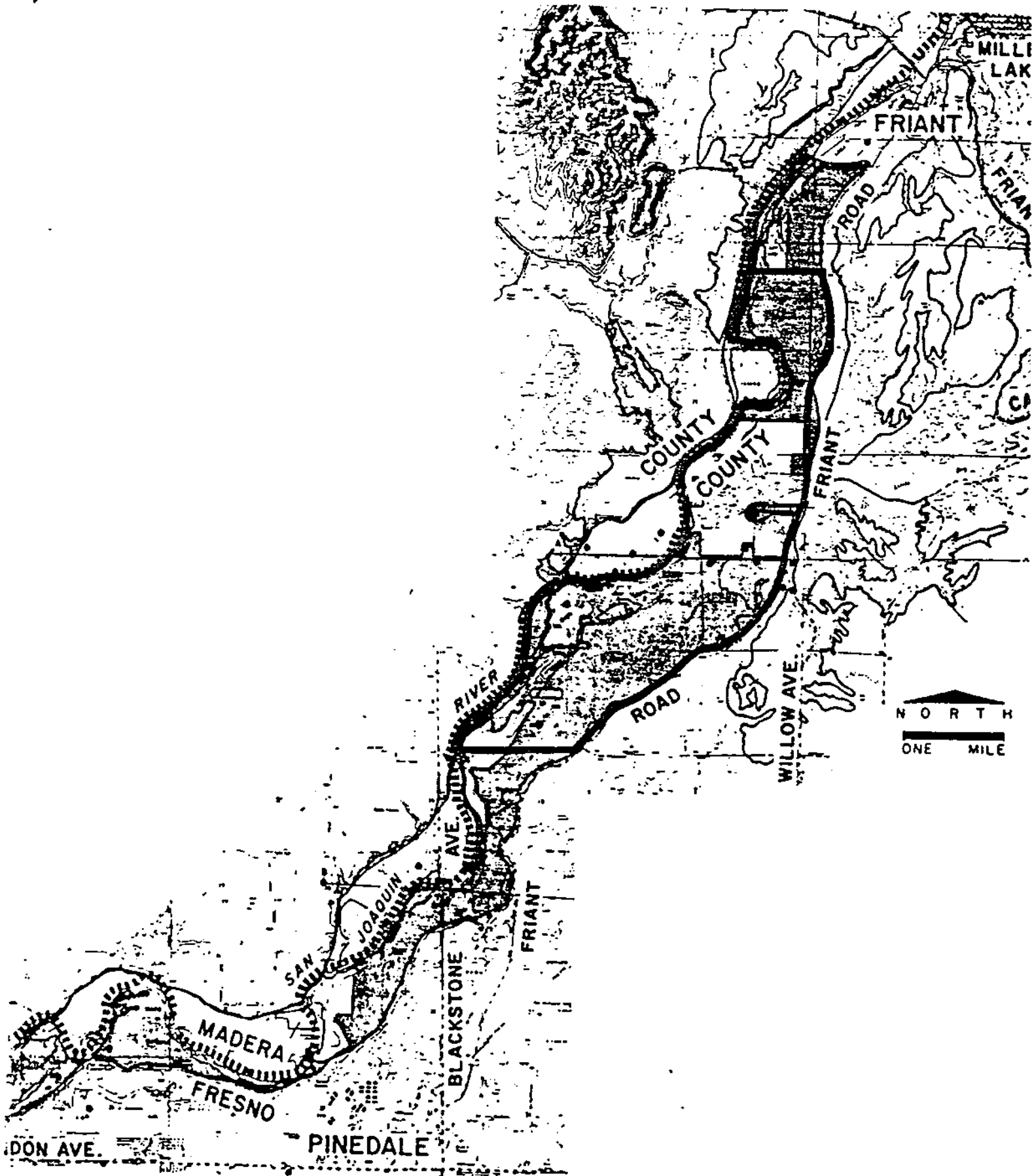


EXHIBIT 6

EXHIBIT _____
Section _____

Boundary Description

The area bounded by the center line of Friant Road; a line one-quarter mile south of and parallel to the north line of Section 19 Township 11, Range 21, M.D.B. & M.; the boundary between Fresno County and Madera County (generally, the center line of the San Joaquin River); and the Copper Avenue alignment.

BLUFF TOE - The potential tendency of a twenty per cent (5:1) slope line and the concave soil surface (or a break between slopes less than twenty per cent and those greater than twenty per cent).



City of Fresno - Development Department

EXHIBIT 8

WORD DESCRIPTION OF SAN JOAQUIN RIVERBOTTOM AREA
WITHIN THE CITY OF FRESNO

The area within the City of Fresno's Sphere of Influence bounded by the boundary between the County of Fresno and the County of Madera (generally, the center line of the San Joaquin River) and the toe of the San Joaquin River Bluff [the point of tangency of a twenty per cent (5:1) slope line and the concave soil surface (or a break between slopes less than twenty per cent and those greater than twenty per cent)] between Lanes Road ~~the~~ the center line of Freeway 99.

m/c/c
D.C. K...
(and) *D.C.*

9990s-018e
2/22/91

EXHIBIT "9"

COUNTY LAND USE APPLICATIONS IN PROCESS WITHIN CITY OF
FRESNO SPHERE OF INFLUENCE ON FEBRUARY 26, 1991

<u>Application Type</u>	<u>Last Application Number Accepted on 2/26/91</u>
General Plan Amendment	GPA <u>358</u>
Amendment Application	AA <u>3577</u>
Variance	VA <u>3317</u>
Conditional Use Permit	CU <u>2504</u>
Director Review & Approval	DRA <u>2651</u>
Tentative Parcel Map	TPM <u>7455</u>
Tentative Parcel Map Waiver	TPM/W <u>90-29</u>

NOTE: Tentative Tracts in process on February 26, 1991:

TT No. 4034, TT No. 4156 and TT No. 4328

4904K

EXHIBIT 10

CITY LAND USE APPLICATIONS IN PROCESS WITHIN CITY OF
FRESNO SPHERE OF INFLUENCE ON FEBRUARY 26, 1991

<u>Application Type</u>	<u>Last Application Number Accepted on 2/26/91</u>
General Plan Amendment	GPA ____
Amendment Application	AA ____
Variance	VA ____
Conditional Use Permit	CU ____
Director Review & Approval	DRA ____
Tentative Parcel Map	TPM ____
Tentative Parcel Map Waiver	TPM/W ____

NOTE: Tentative Tracts in process on February 26, 1991:

9990s-018e
2/22/91

EXHIBIT 11

EQUIVALENT SALES TAX REVENUE SHARING PROPORTIONS

<u>YEAR</u>	<u>CITY</u>
0 Fiscal Year 1989	1
1 (April 1991)	1 1/2
2 (July 1991)	2 1/2
3	3
4	4
5	4 1/2
6	5
7	5
8	5
9	5
10	5
11	5
12	5
13	5
14	5
15	5

EXHIBIT 12

SUBSTANTIAL SALES TAX GENERATOR CALCULATION EXAMPLE

YEAR OF ANNEXATION	ESTIMATED TOTAL CITY SALES TAX	COUNTY PERCENT	SALES TAX AMOUNT OF SUBSTANTIAL SALES TAX GENERATOR IN YR OF ANNEXATION	ADDITIONAL COUNTY PERCENT	NEW COUNTY PERCENT
	COLUMN A	COLUMN B	COLUMN C	COLUMN D	COLUMN E
1988	\$31,964,868	1.0%			
1989	\$33,815,205	1.0%			
1990	\$36,384,480	1.5%			
1991	\$38,756,748	2.5%	\$0	0.000%	1.500%
1992	\$41,283,688	3.0%	\$100,000	0.275%	2.775%
1993	\$43,975,385	4.0%	\$100,000	0.258%	3.258%
1994	\$46,842,580	4.5%	\$100,000	0.242%	4.242%
1995	\$49,896,716	5.0%	\$100,000	0.227%	4.727%
1996	\$53,149,982	5.0%	\$100,000	0.213%	5.213%
1997	\$56,615,360	5.0%	\$120,000	0.240%	5.240%
1998	\$60,306,682	5.0%	\$120,000	0.226%	5.226%
1999	\$64,238,678	5.0%	\$120,000	0.212%	5.212%
2000	\$68,427,039	5.0%	\$120,000	0.199%	5.199%
2001	\$72,888,482	5.0%	\$120,000	0.187%	5.187%
2002	\$77,640,811	5.0%	\$120,000	0.175%	5.175%
				0.165%	5.165%

CALCULATION NOTES

COLUMN A: SALES TAX DATA FOR YEARS 1991 THROUGH THROUGH 2002 ARE ESTIMATES USING A 6.52% GROWTH RATE.

COLUMN B: COUNTY PERCENT. PERCENTAGES PER THE AGREEMENT EXHIBIT 11

COLUMN C: SALES TAX AMOUNT OF SUBSTANTIAL SALES TAX GENERATOR, SHOWING \$100,000 ANNEXED IN 1991 AND \$20,000 IN 1996.

COLUMN D: ADDITIONAL COUNTY PERCENT: COMPUTED AS FOLLOWS COLUMN C (AMOUNT OF SUBSTANTIAL SALES TAX GENERATOR) DIVIDED BY COLUMN A (SALES TAX AMOUNT) USE THE DATA FROM THE MOST RECENT FOUR QUARTERS FOR WHICH TOTAL CITY SALES TAX DATA IS AVAILABLE AS OF APRIL 1.

COLUMN E: NEW COUNTY PERCENT: COMPUTED AS FOLLOWS: THE NEW COUNTY PERCENT IS COMPUTED BY ADDING COLUMN D (ADDITIONAL COUNTY PERCENT) WITH COLUMN B, (THE COUNTY PERCENT).

NOTE: SUBSTANTIAL SALES TAX GENERATOR MINIMUM AMOUNT IS \$400,000 IN TAXABLE SALES PER YEAR.

A-98-449

RECEIVED

OCT 14 1998

FIRST AMENDMENT TO
1991 MEMORANDUM OF UNDERSTANDING BETWEEN
THE COUNTY OF FRESNO, THE CITY OF FRESNO
AND THE FRESNO REDEVELOPMENT AGENCY.

ADMINISTRATION
DEVELOPMENT DEPARTMENT
CITY OF FRESNO

THIS FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING is made and executed this 22nd day of September, 1998 (the "effective date"), by and between the COUNTY OF FRESNO, a political subdivision of the State of California (hereinafter referred to as ("COUNTY")), the CITY OF FRESNO, a municipal corporation of the State of California (hereinafter referred to as "CITY"), and the FRESNO REDEVELOPMENT AGENCY, a redevelopment agency organized and existing under and by virtue of the laws of the State of California (hereinafter referred to as "AGENCY").

RECITALS

WHEREAS, the City, County and Agency have previously entered into a comprehensive agreement covering development, annexations, sales taxes, property taxes, redevelopment and other matters, which is entitled "Memorandum of Understanding Between The County of Fresno, The City Of Fresno, And The Fresno Redevelopment Agency," dated February 26, 1991 (hereinafter "1991 MOU"); and,

WHEREAS, the City and County have experienced a number of disputes between them concerning the operation or interpretation of the 1991 MOU, including a bona fide dispute over the effect on Article VI of the 1991 MOU of certain 1993 legislative amendments to the California Redevelopment Law, more commonly known as "AB 1290"; and,

WHEREAS, these disputes have resulted in several lawsuits between the City and County, which the City and County have agreed to compromise and settle pursuant to the terms of a Master Settlement Agreement, Release, Stipulation For Judgment, and Order (hereafter "Master Settlement Agreement") which is being executed contemporaneously herewith; and,

1 WHEREAS, as set forth in the aforesaid Master Settlement Agreement, the County
2 agreed to extinguish its claim for tax increment payments to County from redevelopment
3 projects adopted by the Agency pursuant to Article VI of the 1991 MOU, and to excise
4 the Redevelopment obligations under Article VI of the 1991 MOU, in consideration of
5 City's agreement to pay County the amounts set forth therein: and.

6 WHEREAS, in order to effectuate the Master Settlement Agreement, the City,
7 County and Agency desire to amend the 1991 MOU in accordance with the Master
8 Settlement Agreement.

9 NOW, THEREFORE, the parties hereto agree to amend the 1991 MOU as
10 follows:

11 AMENDMENT

12 1. Pursuant to the Master Settlement Agreement, County, City and Agency agreed
13 to extinguish County's claim that 1991 MOU Article VI, section 1.7 and the following
14 language from page 44, line 27 to page 45, line 1, "except to the extent redevelopment
15 projects, as defined in this MOU, trigger the application of Article VI of this MOU,"
16 required City and Agency to pay tax increments to County under the terms of the MOU.

17 2. Therefore, County, City and Agency agree to amend the 1991 MOU as follows:

18 a. Whatever present or future obligation City and Agency have or may
19 have under the payment provisions of Article VI of the MOU to pay County property tax
20 increments from redevelopment projects adopted by the Agency are hereby extinguished.

21 b. County shall receive property tax increments from redevelopment
22 projects adopted by the Agency on or after January 1, 1994, or amended by the Agency
23 on or after January 1, 1994, in accordance with the provisions of Health & Safety Code
24 section 33607.5 or 33607.7, if applicable (AB 1290).

25 3. Except as thus amended, all other provisions of the 1991 MOU remain the
26 same and are unaffected by this First Amendment.

27 4. City, Agency and County agree that each has the legal authority to enter into
28 and be legally bound by this First Amendment, that each has exercised its discretion in


1 connection with its Constitutional and statutory responsibilities, and that each has
2 determined that this First Amendment is a lawful and valid act and is undertaken in
3 accordance with all applicable California law and court cases.

4 IN WITNESS WHEREOF, the parties hereto have executed this First Amendment
5 to the 1991 Memorandum of Understanding in the County of Fresno, State of California,
6 on the date first set forth above.

7 CITY OF FRESNO, a Municipal Corporation

8 By 
9 JEFFREY M. REID
10 Chief Administrative Officer

11 REDEVELOPMENT AGENCY OF THE
12 CITY OF FRESNO

13 By 
14 DANIEL R. FITZPATRICK
15 Executive Director of Redevelopment Agency

16 Ex Officio Secretary of the
17 Redevelopment Agency

18 By 
19 Ex Officio Secretary

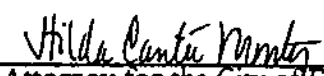
20 ATTEST:

21 REBECCA E. KLISCH
22 CITY CLERK

23 
24 Deputy

25 APPROVED AS TO LEGAL FORM:

26 HILDA CANTÚ MONTÓY
27 CITY ATTORNEY

28 By: 
Attorney for the City of Fresno
and the Redevelopment Agency
of the City of Fresno

(Signatures continued on next page)

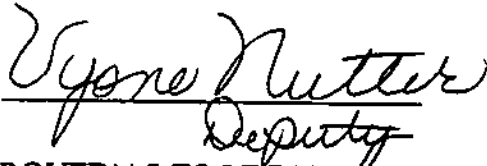
COUNTY OF FRESNO, a Political Subdivision
of the State of California

By: 
Chairman, Board of Supervisors

SEP 22 1998

ATTEST:
SHARI GREENWOOD, CLERK
TO THE BOARD OF SUPERVISORS

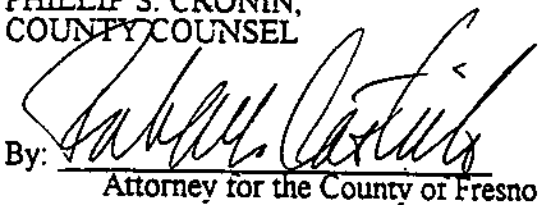
By:


Deputy

APPROVED AS TO LEGAL FORM:

PHILLIP S. CRONIN,
COUNTY COUNSEL

By:


Attorney for the County of Fresno

APPROVED AS TO ACCOUNTING FORM:

GARY W. PETERSON, AUDITOR-CONTROLLER/
TREASURER-TAX COLLECTOR

By:



1 PHILLIP S. CRONIN, County Counsel
2 RUBEN E. CASTILLO, Chief Deputy County Counsel
3 County of Fresno
4 2220 Tulare Street, Fifth Floor
5 Fresno, CA 93721
6 (209) 488-3479

7 HILDA CANTU MONTOY, City Attorney
8 JESSE J. AVILA, Assistant City Attorney
9 City of Fresno
10 2600 Fresno Street
11 Fresno, CA 93721-3602
12 (209) 498-1326

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28
SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF FRESNO

COUNTY OF FRESNO, a political subdivision of
the State of California,

Plaintiff,

v.

CITY OF FRESNO, a municipal corporation
Defendant.

And Related Cross-Action.

CITY OF FRESNO and REDEVELOPMENT
AGENCY OF THE CITY OF FRESNO,

Plaintiffs,

v.

COUNTY OF FRESNO, FRESNO COUNTY
BOARD OF SUPERVISORS, FRESNO COUNTY
AUDITOR-CONTROLLER/TREASURER-TAX
COLLECTOR,

Defendants.

And Related Cross-Action.

COUNTY OF FRESNO, a political subdivision of
the State of California,

Plaintiff,

v.

CITY OF FRESNO and FRESNO
REDEVELOPMENT AGENCY

Defendants.

And Related Cross-Action.

FILED

SEP 30 1998

FRESNO COUNTY SUPERIOR COURT

By _____ CLERK

JUDGMENT
PURSUANT TO STIPULATION

Case No. 502123-3

Case No. 545904-5

Case No. 560663-7

1 COUNTY OF FRESNO, a political subdivision of
2 State of California.

Plaintiff,

v.

3 CITY OF FRESNO and FRESNO
4 REDEVELOPMENT AGENCY.
5 Defendants.

Case No. 571200-5

6 COUNTY OF FRESNO, a political subdivision of
7 the State of California.

Plaintiff

v.

8 CITY OF FRESNO, REDEVELOPMENT
9 AGENCY OF THE CITY OF FRESNO
10 Defendants.

Case No. 573647-5

11 Pursuant to their Master Settlement Agreement, Release, Stipulation For Judgment and
12 Order, the County of Fresno, the Fresno County Board of Supervisors, the Fresno County
13 Auditor-Controller/Treasurer-Tax Collector, Fresno County Clerk Susan Anderson, the City of
14 Fresno and the Redevelopment Agency of the City of Fresno, variously plaintiffs, defendants,
15 cross-complainants and cross-defendants in the above-referenced actions, stipulated that upon the
16 facts and authorities set forth therein, judgment shall be entered as follows:

17 1. The stipulated judgment shall be a judgment within the meaning of Government Code
18 section 970, and shall be binding upon the County of Fresno, the Fresno County Board of
19 Supervisors, the Fresno County Auditor-Controller/Treasurer-Tax Collector, Fresno County
20 Clerk Susan Anderson, the City of Fresno and the Redevelopment Agency of the City of Fresno
21 as to the following "Litigation" set forth in the Master Settlement Agreement, Release, Stipulation
22 For Judgment And Order:

23 1.1. Superior Court Case No. 502123-3, entitled County of Fresno v. City of
24 Fresno, and Related Cross-Action ("Parking Fines"): Plaintiff and Cross-Defendant County of
25 Fresno, Defendant and Cross-Complainant City of Fresno.

26 1.2. Superior Court Case No. 545904-5, entitled City of Fresno and
27 Redevelopment Agency of the City of Fresno v. County of Fresno, Fresno County Board of
28 Supervisors, Fresno County Auditor-Controller/Treasurer-Tax Collector, and Related Cross-

1 Action ("AB 1290"): Plaintiff and Cross-Defendant City of Fresno. Plaintiff and Cross-Defendant
2 Redevelopment Agency of the City of Fresno. Defendant and Cross-Complainant County of
3 Fresno. Defendant Fresno County Board of Supervisors, Defendant Fresno County Auditor-
4 Controller/Treasurer-Tax Collector.

5 1.3. Superior Court Case No. 560663-7, entitled County of Fresno v. City of
6 Fresno, and Fresno Redevelopment Agency, and Related Cross-Action ("CSA 48"): Plaintiff and
7 Cross-Defendant County of Fresno, Defendant and Cross-Complainant City of Fresno, Defendant
8 and Cross-Complainant Redevelopment Agency of the City of Fresno. Cross-Defendant Fresno
9 County Board of Supervisors, Cross-Defendant Fresno County Auditor-Controller/Treasurer-Tax
10 Collector, Cross-Defendant Fresno County Clerk Susan Anderson, Cross-Defendant Sunnyside
11 Property Owners Association, and Cross-Defendant Fresno County Local Agency Formation
12 Commission.

13 1.4. Superior Court Case No. 571200-5, entitled County of Fresno v. City of
14 Fresno and Fresno Redevelopment Agency ("Roeding Park - CEQA"): Petitioner County of
15 Fresno, Respondent City of Fresno, and Respondent Fresno Redevelopment Agency.

16 1.5. Superior Court Case No. 573647-5, entitled County of Fresno v. City of
17 Fresno, Redevelopment Agency of the City of Fresno ("Roeding Park - Redevelopment"):
18 Plaintiff County of Fresno, Defendant City of Fresno, and Defendant Redevelopment Agency of
19 the City of Fresno.

20 2. The stipulated judgment shall be entered pursuant to the provisions of Government
21 Code section 970, et seq., entitled "Payment of Judgments Against Local Public Entities," and
22 that pursuant to those provisions, any party may seek enforcement of the judgment, the court may
23 enforce and compel performance of the judgment by any means available to the court, and the
24 court shall retain jurisdiction over these matters to enforce the payment of the judgment.

25 3. Nothing in this Master Settlement Agreement or this Judgment shall require the
26 Redevelopment Agency, either directly or indirectly, as part of this Master Settlement Agreement
27 or this Judgment, to make any payments to the County or any other affected taxing entities which
28 are prohibited by Health & Safety Code section 33607.5(f)(2), or to pay for any public facilities

1 that will be owned or leased to an affected taxing entity, including the Elkhorn Detention Facility
2 or other County detention facility or facilities.

3 4. The respective parties shall each bear their own costs. No party shall be deemed a
4 prevailing party for purposes of an award of attorneys fees under Code of Civil Procedure Section
5 1021.5.

6 5. The parties below, through their respective counsel, bind themselves to the stipulated
7 judgment set forth below.

8 Dated: September 24, 1998

HILDA CANTU MONTTOY
FRESNO CITY ATTORNEY

9
10 By Hilda Cantu Monttoy
11 Attorneys for the City of Fresno and the
Redevelopment Agency of the City of Fresno

12 Dated: September 22, 1998

13 PHILLIP S. CRONIN
COUNTY COUNSEL

14 By Phillip S. Cronin
15 Attorneys for the County of Fresno,
16 Fresno County Board of Supervisors, Fresno
County Auditor-Controller/Treasurer-Tax Collector.
Fresno County Clerk Susan Anderson

17 Dated: September 23, 1998

18 JEFFREY KUHN
MADERA COUNTY COUNSEL

19
20 By Jonathan M. Kennedy
21 Attorneys for the Fresno County Local Agency
Formation Commission

22 Dated: September _____, 1998

23 PARICHAN, RENBERG, CROSSMAN &
24 HARVEY

25 By _____
26 Attorneys for Sunnyside Homeowners Association

27 JUDGMENT

28 Good cause appearing, it is **HEREBY ORDERED, ADJUDGED AND DECREED:**

1. The stipulation for judgment set forth in the aforesaid Master Settlement Agreement,
Release, Stipulation For Judgment and Order is approved.

1 2. This judgment is binding on the City of Fresno, Redevelopment Agency of the City of
2 Fresno, County of Fresno, Fresno County Local Agency Formation Commission, Fresno County
3 Board of Supervisors, Fresno County Auditor-Controller/Treasurer-Tax Collector, and Fresno
4 County Clerk Susan Anderson, and upon their successors in interest, agents, representatives and
5 officials.

6 3. These actions are dismissed with prejudice. Each party bears its own costs and fees.
7 The Clerk of this Court shall file a copy of this Judgment in each action captioned.

8 4. The parties are ordered to perform their respective obligations set forth in the Master
9 Settlement Agreement, Release, Stipulation For Judgment, and Order.

10 5. This judgment is entered and shall be enforceable pursuant to the provisions of
11 Government Code section 970, et seq.

12 6. The City of Fresno is ordered to pay to the County of Fresno Nine Million Dollars
13 (\$9,000,000) in nine equal annual installment payments of One Million Dollars (\$1,000,000) each,
14 plus interest as agreed by the parties, all in accordance with the terms of the aforesaid Master
15 Settlement Agreement, Release, Stipulation For Judgment and Order.

16 7. The Court finds, pursuant to Government Code section 970.6, after hearing and upon
17 the resolution of the governing body of the City of Fresno, that an unreasonable hardship will
18 result unless the judgment is paid in installments.

19 8. The City of Fresno is ordered to comply with the provisions of Government Code
20 section 970, et seq., including the statutory requirement to make such funds available as are
21 sufficient for payment of the Judgment, with interest thereon, according to Government Code
22 section 970.8.

23 9. The Court retains jurisdiction to enforce this Judgment according to the provisions of
24 Government Code section 970.1.

25
26 Dated: Sept 30 1998



Judge of the Superior Court

27
28 A 38STIP.FIN

1 **MASTER SETTLEMENT AGREEMENT, RELEASE,**
2 **STIPULATION FOR JUDGMENT, AND ORDER.**

3 This MASTER SETTLEMENT AGREEMENT, RELEASE, STIPULATION FOR
4 JUDGMENT, AND ORDER is made and entered into by and between the following
5 parties:

6 **PARTIES:**

7 COUNTY OF FRESNO ("County");

8 CITY OF FRESNO ("City");

9 REDEVELOPMENT AGENCY OF THE CITY OF FRESNO ("Agency");

10 BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO ("Board");

11 FRESNO COUNTY AUDITOR-CONTROLLER/TREASURER-TAX

12 COLLECTOR ("Auditor");

13 FRESNO COUNTY CLERK SUSAN ANDERSON ("Clerk");

14 SUNNYSIDE PROPERTY OWNERS ASSOCIATION ("Sunnyside");

15 FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION

16 ("LAFCo").

17 **RECITALS**

18 WHEREAS, a number of disputes have arisen between the County of Fresno and
19 the City of Fresno, which disputes resulted in a number of lawsuits between them, as
20 follows: (1) County of Fresno v. City of Fresno, Superior Court Case No. 502123-3; (2)
21 City of Fresno, et al. v. County of Fresno, et al., Superior Court Case No. 545904-5; (3)
22 County of Fresno v. City of Fresno, et al., Superior Court Case No. 560663-7; (4) City of
23 Fresno v. County of Fresno, Superior Court Case No. 566895-9; (5) County of Fresno v.
24 City of Fresno, et al., Superior Court Case No. 571200-5; and, (6) County of Fresno v.
25 City of Fresno, et al., Superior Court Case No. 573647-5; and,

26 WHEREAS, related disputes have arisen involving the Sunnyside Property
27 Owners Association and the Fresno County Local Agency Formation Commission,
28 resulting in their being named as parties in Superior Court Case No. 560663-7; and,

1 WHEREAS, on or about December 16, 1996, the aforesaid parties entered into a
2 Master Stipulation For A Moratorium To Permit Settlement Negotiations, which was
3 made an Order of the court on December 17, 1996, as extended by Court approved
4 stipulation, to allow the parties to voluntarily resolve their differences and negotiate a
5 settlement of the lawsuits; and,

6 WHEREAS, as the result of said negotiation efforts under the Master Stipulation
7 For Moratorium, the City and County successfully negotiated a voluntary dismissal of the
8 City's action in Superior Court Case No. 573647-5, entitled City of Fresno v. County of
9 Fresno ("Boot Camp"); and,

10 WHEREAS, on or about August 20, 1997, the negotiating teams of the City
11 Council and Board of Supervisors reached a conceptual agreement and framework for
12 settling their differences, and reduced those principles to a writing entitled the
13 "Recommended Deal Points," which set forth the following settlement principles:

14 1. Issues regarding sphere of influence and annexation will not be linked to the
15 lawsuits. Further, annexation and sphere of influence will be handled in the normal and
16 ordinary routine of present practices.

17 2. As an amendment to the 1991 MOU, and until the expiration of the 1991
18 MOU, the City proposes to commit \$1 million annually toward juvenile detention of
19 sentenced juveniles. This amount is to be adjusted annually by a mutually agreed upon
20 cost-of-living indicator, such as the California Urban C.P.I. In exchange for such a
21 commitment, the County shall agree to use the annual \$1 million, as adjusted, solely for
22 defraying costs of confinement of adjudicated juveniles at the Elkhorn Detention Facility
23 or other County detention facility or facilities, other than the Tenth Street facility, and is
24 willing to accept this as settlement for outstanding matters with the City with respect to
25 all fines and forfeitures in the parking fines lawsuit. Upon execution of this settlement
26 agreement, the 1977 MOU will be immediately amended to the effect that its applicability
27 as to parking violations will terminate.

28 3. The County is willing to settle the outstanding matters on AB 1290 by

1 deferring to applicable state law as the structured method to participate in redevelopment
2 policy formation. Wherever appropriate, redevelopment activities should directly
3 promote mutually beneficial programs focusing on economic development and job
4 creation; and,

5 WHEREAS, the City Council and the Board of Supervisors each approved the
6 principles in the "Recommended Deal Points" and they directed staff to prepare a
7 settlement agreement which reflected those principles; and,

8 WHEREAS, for a number of months thereafter the negotiators for the City and the
9 County were resolving several issues arising from the preparation of settlement
10 documents; and,

11 WHEREAS, as partial payments toward the first annual \$1 million installment
12 payment to County, City paid County \$100,000 and \$400,000 in fiscal year 1997-98,
13 which County shall apply toward the \$1 million due to County for the 1997-98 fiscal
14 year; and,

15 WHEREAS, the "Recommended Deal Points" were supplemented on September
16 15, 1998, to provide that the 1977 MOU shall terminate on March 22, 2008, and shall
17 terminate earlier than March 22, 2008, only if the 1991 MOU is either amended or
18 superseded by another Memorandum of Understanding between the City and County to
19 expressly terminate the 1977 MOU after September 30, 1998. However, at any occasion
20 after September 30, 1998, if the parties meet to negotiate an amendment to the 1991
21 MOU, they shall contemporaneously consider the question of whether or not to terminate
22 the 1977 MOU prior to March 22, 2008; and,

23 WHEREAS, the parties now desire to resolve and compromise their differences
24 and to completely terminate the remaining litigation currently pending in the Superior
25 Court of the State of California, in and for the County of Fresno, which settlement is
26 without adjudication of any issue of fact or law and without any admission of liability or
27 concession on the part of any party, but is a compromise only; and,

28 WHEREAS, the parties agree to reduce their compromise to this Master

1 Settlement Agreement, Release, Stipulation For Judgment and Order (hereinafter "Master
2 Settlement Agreement"), to seek the court's approval thereof, and to initiate and carry out
3 all necessary actions and execute all necessary instruments to fully implement this
4 settlement.

5 NOW, THEREFORE, the parties agree as follows:

6 **AGREEMENT**

7 In consideration of the mutual promises and performances hereinafter described, it
8 is agreed as follows:

9 A. **THE LITIGATION BEING COMPROMISED.** The several cases
10 comprising the Litigation, with the corresponding plaintiffs, defendants, cross-
11 complainants or cross-defendants named therein, each of whom shall be bound by this
12 Master Settlement Agreement, are as follows:

13 1. Superior Court Case No. 502123-3, entitled County of Fresno v. City of
14 Fresno, and Related Cross-Action ("Parking Fines"): Plaintiff and Cross-Defendant
15 County of Fresno, Defendant and Cross-Complainant City of Fresno.

16 2. Superior Court Case No. 545904-5, entitled City of Fresno and
17 Redevelopment Agency of the City of Fresno v. County of Fresno, Fresno County Board
18 of Supervisors, Fresno County Auditor-Controller/Treasurer-Tax Collector, and Related
19 Cross-Action ("AB 1290"): Plaintiff and Cross-Defendant City of Fresno, Plaintiff and
20 Cross-Defendant Redevelopment Agency of the City of Fresno, Defendant and Cross-
21 Complainant County of Fresno, Defendant Fresno County Board of Supervisors,
22 Defendant Fresno County Auditor-Controller/Treasurer-Tax Collector.

23 3. Superior Court Case No. 560663-7, entitled County of Fresno v. City of
24 Fresno, and Fresno Redevelopment Agency, and Related Cross-Action ("CSA 48"):
25 Plaintiff and Cross-Defendant County of Fresno, Defendant and Cross-Complainant City
26 of Fresno, Defendant and Cross-Complainant Redevelopment Agency of the City of
27 Fresno, Cross-Defendant Fresno County Board of Supervisors, Cross-Defendant Fresno
28 County Auditor-Controller/Treasurer-Tax Collector, Cross-Defendant Fresno County

1 Clerk Susan Anderson, Cross-Defendant Sunnyside Property Owners Association, and
2 Cross-Defendant Fresno County Local Agency Formation Commission.

3 4. Superior Court Case No. 571200-5, entitled County of Fresno v. City of
4 Fresno and Fresno Redevelopment Agency ("Roeding Park - CEQA"): Petitioner County
5 of Fresno, Respondent City of Fresno, and Respondent Fresno Redevelopment Agency.

6 5. Superior Court Case No. 573647-5, entitled County of Fresno v. City of
7 Fresno, Redevelopment Agency of the City of Fresno ("Roeding Park - Redevelopment"):
8 Plaintiff County of Fresno, Defendant City of Fresno, and Defendant Redevelopment
9 Agency of the City of Fresno.

10 Superior Court Case No. 566895-9, entitled (City of Fresno v. County of Fresno
11 ("Bootcamp")); was earlier voluntarily dismissed as the result of City and County
12 negotiations, which dismissal was entered on January 28, 1997, and said action is not a
13 part of this Master Settlement Agreement. The remaining lawsuits (hereinafter the
14 "Litigation") are in various stages of action, having been suspended and stayed as the
15 result of the parties' Moratorium Agreement, and the parties intend that they each and all
16 be compromised and settled by this Master Settlement Agreement. The parties agree that
17 the Presiding Judge of the Superior Court may make this Master Settlement Agreement an
18 order of the court, and that the order shall be binding upon the parties and the Litigation.

19 B. **THE EXCHANGE OF CONSIDERATION.** The parties agree that the
20 following promises and counter-performances thereof constitute the necessary
21 consideration for the settlement being made herein:

22 1. All parties shall forthwith dismiss their respective pending complaints,
23 petitions, and cross-complaints in each of the cases comprising the Litigation against all
24 defendants and cross-defendants listed in this Master Settlement Agreement, with
25 prejudice.

26 2. All parties shall bear their own legal fees, court costs, attorneys fees and
27 other expenses incurred in or related to the Litigation, including any legal fees or costs
28 incurred in finalizing this Master Settlement Agreement.

1 3. City, County and Agency agree that County shall and hereby does
2 extinguish its claims to the receipt of property tax increments under Article VI of the
3 1991 MOU, and further agree that property tax increment payments shall instead be paid
4 to County pursuant to the provisions of Health and Safety Code section 33607.5, or
5 33607.7 as applicable. County, City and Agency agree to execute an amendment to the
6 1991 MOU, whereby County agrees to accept the new obligations and the performance
7 set forth therein in place of the obligations set forth in the payment provisions of Article
8 VI of the 1991 MOU. The form of the Amendment to the 1991 MOU is attached as
9 Exhibit "A."

10 4. City and County agree to amend the 1977 MOU to provide for its
11 termination, as follows: The 1977 MOU shall terminate March 22, 2008. and shall
12 terminate earlier than March 22, 2008, only if the 1991 MOU is either amended or
13 superseded by another Memorandum of Understanding between the City and County to
14 expressly terminate the 1977 MOU after September 30, 1998. However, at any occasion
15 after September 30, 1998, if the parties meet to negotiate an amendment to the 1991
16 MOU, they shall contemporaneously consider the question of whether or not to terminate
17 the 1977 MOU prior to March 22, 2008. The form of the amendment to the 1977 MOU
18 is attached as Exhibit "B."

19 5. City and County stipulate to a judgment pursuant to the provisions of
20 Government Code section 970, et seq., the form of which is attached as Exhibit "C", the
21 intended effect of which is to pay County the sum of Nine Million Dollars
22 (\$9,000,000.00), to be paid in equal annual installments of One Million Dollars
23 (\$1,000,000.00), plus interest, from the 1997-98 fiscal year up to and including the 2005-
24 06 fiscal year, to be used by County toward defraying the costs of confinement of
25 adjudicated juveniles at the Elkhorn Detention Facility or other County detention facility
26 or facilities, other than the Tenth Street facility, as follows:

27 (a) For the fiscal year 1997-98, City shall pay County the sum of
28 One Million Dollars (\$1,000,000.00). Credit is hereby given to City for two partial

1 payments previously made to County which total Five Hundred Thousand Dollars
2 (\$500,000.00), leaving a balance of Five Hundred Thousand Dollars (\$500,000.00) due
3 and owing to the County for fiscal year 1997-98. Said balance of Five Hundred
4 Thousand Dollars (\$500,000.00) shall be paid in seven equal annual installment payments
5 of Seventy One Thousand Four Hundred Twenty Nine Dollars (\$71,429.00) until fully
6 paid. Each payment shall bear interest, which is computed as follows: each payment
7 shall be adjusted by the annual percentage of change in the California Urban Consumer
8 Price Index For All Urban Consumers issued by the State of California, Department of
9 Industrial Relations, with the base index being 160.2 (July, 1997). The first annual
10 installment payment, adjusted by the aforesaid change in the California Urban C.P.I.,
11 shall be paid on September 1, 1999. Each subsequent installment payment plus the
12 adjustment for change in the California Urban C.P.I. shall be paid on September 1 of each
13 fiscal year until fully paid. In no event shall the adjustment for change in the California
14 Urban C.P.I. result in a payment to County of less than \$71,429.00 in any fiscal year.

15 (b) For fiscal year 1998-99 and for each fiscal year thereafter up to
16 and including fiscal year 2005-06, City shall pay County an installment payment of One
17 Million Dollars (\$1,000,000) on September 1 of each such fiscal year. The payment for
18 fiscal year 1998-99 and for each year thereafter up to and including the fiscal year 2005-
19 06 shall bear interest, to be computed as follows: each payment shall be adjusted by the
20 annual percentage of change in the California Urban Consumer Price Index For All Urban
21 Consumers issued by the State of California, Department of Industrial Relations, with the
22 base index being 160.2 (July, 1997). The first annual installment payment, adjusted by
23 the aforesaid change in the California Urban C.P.I., shall be paid on September 1, 1998.
24 Each subsequent installment payment plus the adjustment for change in the California
25 Urban C.P.I. shall be paid on September 1 of each fiscal year until fully paid. In no event
26 shall the adjustment for change in the California Urban C.P.I. result in a payment to
27 County of less than \$1,000,000.00 in any fiscal year.

28 ///

1 Nothing in this Master Settlement Agreement or this Judgment shall require
2 the Redevelopment Agency, either directly or indirectly, as part of this Master Settlement
3 Agreement or this Judgment, to make any payments to the County or any other affected
4 taxing entities which are prohibited by Health & Safety Code section 33607.5(f)(2), or to
5 pay for any public facilities that will be owned or leased to an affected taxing entity,
6 including the Elkhorn Detention Facility or other County detention facility or facilities.

7 The City and County shall take all necessary steps to bring this stipulation
8 for judgment to the court for approval promptly after execution of this Master Settlement
9 Agreement by all parties, including, if necessary, the filing of an appropriate motion. If
10 such a motion is required, the parties shall prepare a joint motion to the court and
11 schedule it for hearing at the earliest available date on the court's calendar.

12 6. City and Agency Releases. City and Agency hereby agree to and do
13 fully, finally and forever remise, discharge and release the County, Board, Auditor, Clerk,
14 Sunnyside and LAFCo, their officers, employees, agents, accountants, attorneys, and all
15 others acting for, under, or in concert with such party, past and present, of and from those
16 claims, demands, actions, causes of action, obligations, damages, liabilities, loss, costs or
17 expense, including attorney's fees, which are alleged or set forth in the lawsuits
18 comprising the Litigation.

19 7. Sunnyside Releases. Sunnyside hereby agrees to and does fully, finally
20 and forever remise, discharge and release the City and Agency, their officers, employees,
21 agents, accountants, attorneys, and all others acting for, under, or in concert with such
22 party, past and present, of and from those claims, demands, actions, causes of action,
23 obligations, damages, liabilities, loss, costs or expense, including attorney's fees, which
24 are alleged or set forth in the lawsuits comprising the Litigation.

25 8. LAFCo Releases. LAFCo hereby agrees to and does fully, finally and
26 forever remise, discharge and release the City and Agency, their officers, employees,
27 agents, accountants, attorneys, and all others acting for, under, or in concert with such
28 party, past and present, of and from those claims, demands, actions, causes of action,

1 obligations, damages, liabilities, loss, costs or expense, including attorney's fees, which
2 are alleged or set forth in the lawsuits comprising the Litigation.

3 9. County, Board, Auditor and Clerk Releases. County, Board, Auditor
4 and Clerk hereby agree to and do fully, finally and forever remise, discharge and release
5 the City and Agency, their officers, employees, agents, accountants, attorneys, and all
6 others acting for, under, or in concert with such party, past and present, of and from those
7 claims, demands, actions, causes of action, obligations, damages, liabilities, loss, costs or
8 expense, including attorney's fees, which are alleged or set forth in the lawsuits
9 comprising the Litigation.

10 10. The parties hereto authorize their respective counsel to execute
11 whatever form of documentation is necessary or required to terminate the aforementioned
12 lawsuits constituting the Litigation.

13 C. **NO ADMISSION.** Nothing contained in this settlement agreement shall be
14 interpreted or construed to be an admission on the part of, nor to the prejudice of any
15 person or party named herein, and each such party or person hereto expressly denies any
16 and all liabilities associated with or related to said Litigation and claims described
17 therein.

18 D. **FINAL SETTLEMENT.** The parties understand that the provisions of
19 this Master Settlement Agreement shall operate as the final release of all claims set forth
20 in the Litigation.

21 E. **NO INDUCEMENT.** Each party, individually and collectively, declares
22 and represents that no promise, inducement or other agreement not expressly contained
23 herein has been made and this Master Settlement Agreement contains the entire
24 agreement between the parties as to its subject matter and the terms of this Master
25 Settlement Agreement are contractual and are not recitals only.

26 F. **BINDING EFFECT.** This Master Settlement Agreement shall inure to the
27 benefit of and be binding upon each party hereto, their predecessors, successors in
28 interest, subsidiaries, affiliates, representatives, assigns, agents, officers, directors,

1 employees and personal representatives, past, present and future. The parties specifically
2 agree that this Master Settlement Agreement and the compromises reflected herein are
3 premised on factors which are applicable only to the parties and circumstances stated
4 herein, and that this Master Settlement Agreement is not made for the benefit of or
5 intended to apply to any other person, public entity or circumstance not specifically
6 enumerated herein.

7 G. **FURTHER ACTIONS; FURTHER DOCUMENTS.** To the extent any
8 further or additional things or acts are required by to be done or taken by any of the
9 parties hereto to effectuate this Master Settlement Agreement, each party binds itself or
10 himself to do such things and take such acts, including those to be done or taken through
11 the exercise of executive or administrative authority, to fully carry out the purposes and
12 intent of this Master Settlement Agreement. Furthermore, to the extent further documents
13 or instruments are required to be executed by any of the parties to effectuate this Master
14 Settlement Agreement each party hereto agrees to execute and deliver such other and
15 further documents as may be required to carry out the terms of this Master Settlement
16 Agreement.

17 H. **REPRESENTATION.** Each party represents and acknowledges that each
18 of them has been represented by counsel with respect to this Master Settlement
19 Agreement and all matters covered by or related to herein. Each party has been fully
20 advised with respect to all rights which are affected by this Master Settlement
21 Agreement, and each party has authorized and directed their respective attorneys to
22 execute and deliver such other and further documents or instruments as may be required
23 to carry out the terms of this Master Settlement Agreement.

24 I. **NO MODIFICATION.** This Master Settlement Agreement contains the
25 entire agreement between the parties as to its subject matter and may not be altered,
26 amended, or modified in any respect, except by a writing duly executed by the party to be
27 charged. All further prior agreements, understandings, oral agreements and writings as to
28 the subject matter of this Master Settlement Agreement, save and except the

1 understanding of the parties which culminated in the voluntary dismissal of the Boot
2 Camp lawsuit, are expressly superseded hereby and are of no further force or effect.

3 J. **ENFORCEMENT**. This Master Settlement Agreement may be enforced
4 by any of the parties hereto for the failure of any other party to comply with its terms and
5 to seek any remedy available under law or equity, including specific performance or
6 injunction.

7 K. **LEGAL AUTHORITY**. Each party warrants to the others that it has the
8 power and authority to enter into this Master Settlement Agreement on behalf of itself, its
9 predecessor(s) in interest, and any successors in interest. Each party warrants to the
10 others that each has the legal authority to enter into and be legally bound by this Master
11 Settlement Agreement, that each has exercised its discretion in connection with its
12 Constitutional and statutory responsibilities, and that each determined that this Master
13 Settlement Agreement is a lawful and valid act and is undertaken in accordance with all
14 applicable California law and court cases.

15 L. **HEADINGS**. Paragraph headings are used herein for convenience only
16 and shall have no force or effect in the interpretation or construction of this Master
17 Settlement Agreement. As used in this Master Settlement Agreement, the singular shall
18 include the plural and the masculine shall include the feminine and neuter genders.

19 M. **COUNTERPARTS**. This Master Settlement Agreement may be executed
20 in counterparts, each of which shall be deemed an original, but all of which together shall
21 constitute one and the same agreement.

22 N. **EFFECTIVE DATE**. This Master Settlement Agreement shall be
23 effective and binding upon all the parties upon execution by all the parties hereto.

24 IN WITNESS WHEREOF, The parties below named have executed this Master
25 Settlement Agreement in the County of Fresno, State of California, as of the date and
26 year last below written.

27 ////

28 ////

1 Dated: September 23, 1998

CITY OF FRESNO

2
3 By Jeffrey M. Reid
4 City Manager

5 Dated: September 23, 1998

REDEVELOPMENT AGENCY OF
THE CITY OF FRESNO

6
7 By Daniel R. Fitzpatrick
8 Daniel R. Fitzpatrick
9 Executive Director

10 Dated: September 24, 1998

APPROVED AS TO LEGAL FORM:

HILDA CANTU MONTYOY
City Attorney

11 ATTEST:

12 REBECCA E. KLISCH
CITY CLERK

13 By Rebecca E. Klisch
14 Deputy

By Hilda Cantu Montoyo
Attorney for the City of Fresno and
Redevelopment Agency of the City of Fresno.

15 Dated: September 22, 1998

COUNTY OF FRESNO, BOARD OF
SUPERVISORS FOR THE COUNTY OF
FRESNO

16
17 By Dan Brambilla
18 Chairman
19 Board of Supervisors

20 Dated: September 22, 1998

FRESNO COUNTY AUDITOR-
CONTROLLER/TREASURER TAX
COLLECTOR

21
22 By Susan B. Anderson
23

24 Dated: September 23, 1998

FRESNO COUNTY CLERK SUSAN
ANDERSON

25
26 ATTEST:

27 SHARI GREENWOOD, Clerk
28 Board of Supervisors

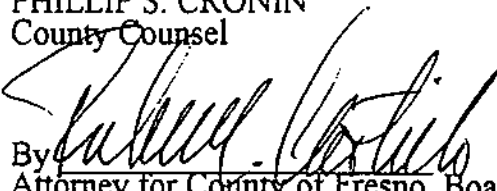
By Vyone Nutter
Deputy

By Susan B. Anderson

1 Dated: September 22, 1998

APPROVED AS TO LEGAL FORM:

2 PHILLIP S. CRONIN
3 County Counsel

4 By 
5 Attorney for County of Fresno, Board of
6 Supervisors of Fresno County, Fresno County
7 Auditor-Controller/Treasurer-Tax Collector,
8 Fresno County Clerk

9 Dated: September 29, 1998

SUNNYSIDE PROPERTY OWNERS
ASSOCIATION

10 By 

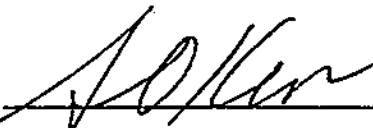
11 Dated: September _____, 1998

APPROVED AS TO LEGAL FORM:

12
13 Attorney for Sunnyside Property Owners
14 Association

15 Dated: September 23, 1998

FRESNO COUNTY LOCAL AGENCY
FORMATION COMMISSION

16
17 By 

18 Dated: September 23, 1998

APPROVED AS TO LEGAL FORM:

19 JEFF KUHN
20 Madera County Counsel

21
22 By 
23 Attorney for Fresno County Local Agency
24 Formation Commission

ORDER

25 GOOD CAUSE APPEARING, the foregoing Master Settlement Agreement,
26 Release And Stipulation For Judgment of the parties is approved and made an order of
27 this court. This Order is binding on all the litigation and the parties referenced herein.
28 The parties are ordered to comply with the terms of this Master Settlement Agreement,

1 Release And Stipulation for Judgment. and the Court shall retain continuing jurisdiction
2 over the parties and subject matter to enforce its terms. It is not necessary for the parties
3 to secure further orders from assigned departments in order to effectuate this Master
4 Settlement Agreement. This Court Order shall be filed with each assigned department.

5
6
7 Dated: Sept 30, 1998

James Quashniok
Honorable ~~James Quashniok~~ *L. J. O'Neill*
Presiding Judge, Fresno County Courts

8
9 A: 98MASTER.FEN

419-1930 32

AGREEMENT

BETWEEN THE COUNTY OF FRESNO AND THE CITY OF FRESNO
RELATING TO MUNICIPAL COURT FINES AND FORFEITURES

THIS AGREEMENT, made as of March 22, 1977, between the County of Fresno, a political subdivision of the State of California, party of the first part, and the City of Fresno, a municipal corporation, to wit, a charter city within said County, party of the second part:

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Section 1463 of the Penal Code and related sections, fines and forfeitures collected by the Municipal Court of the Fresno Judicial District are currently disposed of by the Treasurer of the County of Fresno by transferring the same to the proper funds of the County of Fresno and the City of Fresno in accordance with the percentage set forth in said sections:

WHEREAS, said section provides that any county and city therein may by mutual agreement adjust the percentage therein specified; and

WHEREAS, as a part of the settlement of the controversy between the County and City relating to the sharing of the sales and use taxes collected within the city, the parties have agreed that 100% of all fines and forfeitures referred to in Section 1463(c) of the Penal Code collected by the Municipal Court of the Fresno Judicial District shall, on and after April 1, 1977, be transferred by the County Treasurer to the County general fund to be retained by the County for its use and benefit, except as hereinafter otherwise provided.

NOW, THEREFORE, the parties hereto have and by these presents do agree as follows:

1. All transfers by the Fresno County Treasurer made pursuant to Penal Code Section 1463(c), of the fines and forfeitures specified therein collected and deposited with said Treasurer by the Municipal Court of the Fresno Judicial District, shall be made, on and after April 1, 1977, one hundred percent (100%) to the general fund of the County of Fresno; provided, however, that any of said fines and forfeitures so collected and deposited on or before February 28, 1977, shall, whether transferred before or after April 1, 1977, be distributed according to the percentage allocation specified in Penal Code Section 1463(c).

2. This agreement shall not be deemed to apply to any funds except those which would otherwise be transferred to the City of Fresno pursuant to Section 1463(c) of the Penal Code.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed as of the date hereinabove contained, pursuant to resolutions of the respective governing bodies thereof duly made.

COUNTY OF FRESNO

CITY OF FRESNO

BY *John R. Dardhan*
Chairman,
Board of Supervisors

BY *T. W. Henderson*
Chief Administrative Officer

APPROVED AS TO LEGAL FORM:

BY *Robert M. Wash*
ROBERT M. WASH
Attorney Counsel

APPROVED AS TO FORM
BY *James C. [Signature]*
City Clerk

M. G. WINGETT, Clerk of
the Board of Supervisors

1 PHILLIP S. CRONIN, County Counsel
2 RUBEN E. CASTILLO, Chief Deputy County Counsel
3 County of Fresno
4 2220 Tulare Street, Fifth Floor
5 Fresno, CA 93721
6 (209) 488-3479

7 HILDA CANTU MONTROY, City Attorney
8 JESSE J. AVILA, Assistant City Attorney
9 City of Fresno
10 2600 Fresno Street
11 Fresno, CA 93721-3602
12 (209) 498-1326

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28
SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF FRESNO

10 COUNTY OF FRESNO, a political subdivision of)
11 the State of California.)
12 Plaintiff.)

13 v.

14 CITY OF FRESNO, a municipal corporation)
15 Defendant.)

16 And Related Cross-Action.

17 CITY OF FRESNO and REDEVELOPMENT)
18 AGENCY OF THE CITY OF FRESNO,)
19 Plaintiffs.)

20 v.

21 COUNTY OF FRESNO, FRESNO COUNTY)
22 BOARD OF SUPERVISORS, FRESNO COUNTY)
23 AUDITOR-CONTROLLER/TREASURER-TAX)
24 COLLECTOR)

25 Defendants.

26 And Related Cross-Action.

27 COUNTY OF FRESNO, a political subdivision of)
28 the State of California.)
Plaintiff,

v.

CITY OF FRESNO and FRESNO
REDEVELOPMENT AGENCY

Defendants.

And Related Cross-Action.

JUDGMENT
PURSUANT TO STIPULATION

Case No. 502123-3

Case No. 545904-5

Case No. 560663-7

1 COUNTY OF FRESNO, a political subdivision of
2 State of California.

Plaintiff,

v.

3 CITY OF FRESNO and FRESNO
4 REDEVELOPMENT AGENCY.
5 Defendants.

Case No. 571200-5

6 COUNTY OF FRESNO, a political subdivision of
7 the State of California.

Plaintiff

v.

8 CITY OF FRESNO, REDEVELOPMENT
9 AGENCY OF THE CITY OF FRESNO
10 Defendants.

Case No. 573647-5

11 Pursuant to their Master Settlement Agreement, Release, Stipulation For Judgment and
12 Order, the County of Fresno, the Fresno County Board of Supervisors, the Fresno County
13 Auditor-Controller/Treasurer-Tax Collector, Fresno County Clerk Susan Anderson, the City of
14 Fresno and the Redevelopment Agency of the City of Fresno, variously plaintiffs, defendants,
15 cross-complainants and cross-defendants in the above-referenced actions, stipulated that upon the
16 facts and authorities set forth therein, judgment shall be entered as follows:

17 1. The stipulated judgment shall be a judgment within the meaning of Government Code
18 section 970, and shall be binding upon the County of Fresno, the Fresno County Board of
19 Supervisors, the Fresno County Auditor-Controller/Treasurer-Tax Collector, Fresno County
20 Clerk Susan Anderson, the City of Fresno and the Redevelopment Agency of the City of Fresno
21 as to the following "Litigation" set forth in the Master Settlement Agreement, Release, Stipulation
22 For Judgment And Order:

23 1.1. Superior Court Case No. 502123-3, entitled County of Fresno v. City of
24 Fresno, and Related Cross-Action ("Parking Fines"): Plaintiff and Cross-Defendant County of
25 Fresno, Defendant and Cross-Complainant City of Fresno.

26 1.2. Superior Court Case No. 545904-5, entitled City of Fresno and
27 Redevelopment Agency of the City of Fresno v. County of Fresno, Fresno County Board of
28 Supervisors, Fresno County Auditor-Controller/Treasurer-Tax Collector, and Related Cross-

1 Action ("AB 1290"): Plaintiff and Cross-Defendant City of Fresno, Plaintiff and Cross-Defendant
2 Redevelopment Agency of the City of Fresno, Defendant and Cross-Complainant County of
3 Fresno, Defendant Fresno County Board of Supervisors, Defendant Fresno County Auditor-
4 Controller/Treasurer-Tax Collector.

5 1.3. Superior Court Case No. 560663-7, entitled County of Fresno v. City of
6 Fresno, and Fresno Redevelopment Agency, and Related Cross-Action ("CSA 48"): Plaintiff and
7 Cross-Defendant County of Fresno, Defendant and Cross-Complainant City of Fresno, Defendant
8 and Cross-Complainant Redevelopment Agency of the City of Fresno, Cross-Defendant Fresno
9 County Board of Supervisors, Cross-Defendant Fresno County Auditor-Controller/Treasurer-Tax
10 Collector, Cross-Defendant Fresno County Clerk Susan Anderson, Cross-Defendant Sunnyside
11 Property Owners Association, and Cross-Defendant Fresno County Local Agency Formation
12 Commission.

13 1.4. Superior Court Case No. 571200-5, entitled County of Fresno v. City of
14 Fresno and Fresno Redevelopment Agency ("Roeding Park - CEQA"): Petitioner County of
15 Fresno, Respondent City of Fresno, and Respondent Fresno Redevelopment Agency.

16 1.5. Superior Court Case No. 573647-5, entitled County of Fresno v. City of
17 Fresno, Redevelopment Agency of the City of Fresno ("Roeding Park - Redevelopment"):
18 Plaintiff County of Fresno, Defendant City of Fresno, and Defendant Redevelopment Agency of
19 the City of Fresno.

20 2. The stipulated judgment shall be entered pursuant to the provisions of Government
21 Code section 970, et seq., entitled "Payment of Judgments Against Local Public Entities," and
22 that pursuant to those provisions, any party may seek enforcement of the judgment, the court may
23 enforce and compel performance of the judgment by any means available to the court, and the
24 court shall retain jurisdiction over these matters to enforce the payment of the judgment.

25 3. Nothing in this Master Settlement Agreement or this Judgment shall require the
26 Redevelopment Agency, either directly or indirectly, as part of this Master Settlement Agreement
27 or this Judgment, to make any payments to the County or any other affected taxing entities which
28 are prohibited by Health & Safety Code section 33607.5(f)(2), or to pay for any public facilities

1 that will be owned or leased to an affected taxing entity, including the Elkhorn Detention Facility
2 or other County detention facility or facilities.

3 4. The respective parties shall each bear their own costs. No party shall be deemed a
4 prevailing party for purposes of an award of attorneys fees under Code of Civil Procedure Section
5 1021.5.

6 5. The parties below, through their respective counsel, bind themselves to the stipulated
7 judgment set forth below.

8 Dated: September _____, 1998

HILDA CANTU MONTROY
FRESNO CITY ATTORNEY

10 By _____
11 Attorneys for the City of Fresno and the
Redevelopment Agency of the City of Fresno

12 Dated: September _____, 1998

PHILLIP S. CRONIN
COUNTY COUNSEL

14 By _____
15 Attorneys for the County of Fresno,
16 Fresno County Board of Supervisors, Fresno
County Auditor-Controller/Treasurer-Tax Collector,
Fresno County Clerk Susan Anderson

17 Dated: September _____, 1998

JEFFREY KUHN
MADERA COUNTY COUNSEL

20 By _____
Attorneys for the Fresno County Local Agency
Formation Commission

21 Dated: September _____, 1998

PARICHAN, RENBERG, CROSSMAN &
HARVEY

24 By _____
Attorneys for Sunnyside Homeowners Association

25 JUDGMENT

26 Good cause appearing, it is **HEREBY ORDERED, ADJUDGED AND DECREED:**

27 1. The stipulation for judgment set forth in the aforesaid Master Settlement Agreement,
28 Release, Stipulation For Judgment and Order is approved.

1 2. This judgment is binding on the City of Fresno, Redevelopment Agency of the City of
2 Fresno, County of Fresno, Fresno County Local Agency Formation Commission, Fresno County
3 Board of Supervisors, Fresno County Auditor-Controller/Treasurer-Tax Collector, and Fresno
4 County Clerk Susan Anderson, and upon their successors in interest, agents, representatives and
5 officials.

6 3. These actions are dismissed with prejudice. Each party bears its own costs and fees.
7 The Clerk of this Court shall file a copy of this Judgment in each action captioned.

8 4. The parties are ordered to perform their respective obligations set forth in the Master
9 Settlement Agreement, Release, Stipulation For Judgment, and Order.

10 5. This judgment is entered and shall be enforceable pursuant to the provisions of
11 Government Code section 970, et seq.

12 6. The City of Fresno is ordered to pay to the County of Fresno Nine Million Dollars
13 (\$9,000,000) in nine equal annual installment payments of One Million Dollars (\$1,000,000) each,
14 plus interest as agreed by the parties, all in accordance with the terms of the aforesaid Master
15 Settlement Agreement, Release, Stipulation For Judgment and Order.

16 7. The Court finds, pursuant to Government Code section 970.6, after hearing and upon
17 the resolution of the governing body of the City of Fresno, that an unreasonable hardship will
18 result unless the judgment is paid in installments.

19 8. The City of Fresno is ordered to comply with the provisions of Government Code
20 section 970, et seq., including the statutory requirement to make such funds available as are
21 sufficient for payment of the Judgment, with interest thereon, according to Government Code
22 section 970.8.

23 9. The Court retains jurisdiction to enforce this Judgment according to the provisions of
24 Government Code section 970.1.

25
26 Dated: _____, 1998

27 _____
Judge of the Superior Court

28 A. 98STIP.FIN

FIRST AMENDMENT TO 1977 MOU

THIS FIRST AMENDMENT TO 1977 MOU is made and executed this 22ND day of September, 1998 (the "effective date") by and between the COUNTY OF FRESNO, a political subdivision of the State of California (hereinafter referred to as ("COUNTY")), and the CITY OF FRESNO, a municipal corporation of the State of California (hereinafter referred to as "CITY").

RECITALS

WHEREAS, the City and County entered into that certain agreement entitled "Agreement Between The County of Fresno And The City Of Fresno Relating To Municipal Court Fines And Forfeitures," dated March 22, 1977 (hereinafter "1977 MOU"), attached hereto as Exhibit "1"; and,

WHEREAS, the City and County have experienced a number of disputes between them concerning the operation or interpretation of the 1977 MOU, including a bona fide dispute over whether the provisions of certain 1993 legislative amendments, more commonly known as "AB 408," superseded the 1977 MOU as it related to revenues from parking citations issued by the City of Fresno; and,

WHEREAS, these disputes have resulted in a complaint being filed by the County and a cross-complaint being filed by the City, wherein County and City raised a number of claims between them, which the City and County have agreed to compromise and settle pursuant to the terms of a Master Settlement Agreement, Release, Stipulation for Judgment and Order (hereinafter "Master Settlement Agreement"), which is being executed contemporaneously herewith; and,

WHEREAS, as set forth in the aforesaid Master Settlement Agreement, and in consideration of City's agreement to pay County the amounts set forth in the Master Settlement Agreement, the County agreed to extinguish its claim that civil penalties from parking citations issued and processed by the City fell within the scope of the 1977 MOU and had to be paid to County, to amend the 1977 MOU in accordance therewith, and to amend the 1977 MOU to provide that the 1977 MOU shall terminate on March 22, 2008,

1 and shall terminate earlier than March 22, 2008, only if the 1991 MOU is either amended
2 or superseded by another Memorandum of Understanding between the City and County
3 to expressly terminate the 1977 MOU after September 30, 1998. However, at any
4 occasion after September 30, 1998, if the parties meet to negotiate an amendment to the
5 1991 MOU, they shall contemporaneously consider the question of whether or not to
6 terminate the 1977 MOU prior to March 22, 2008; and,

7 WHEREAS, in order to implement the Master Settlement Agreement, the City,
8 County and Agency desire to amend the 1977 MOU so as to effectuate the parties' accord
9 in the Master Settlement Agreement.

10 NOW, THEREFORE, the parties hereto agree to amend the 1977 MOU as
11 follows:

12 AMENDMENT

13 1. Pursuant to the Master Settlement Agreement, City and County agreed to
14 extinguish County's claim that civil parking penalties from the issuance and processing of
15 parking citations by the City were properly the revenues belonging to County under the
16 1977 MOU, to amend the 1977 MOU in accordance therewith, and to provide for a
17 termination of the 1977 MOU.

18 2. Accordingly, County and City amend the 1977 MOU as follows:

19 A. Insert as new paragraph 3, at page 2 thereof, the following:

20 "3. Effective July 1, 1993, this Agreement does not apply to
21 parking violations, or to the revenues or proceeds thereof, of
22 whatever kind or nature, collected in connection with parking
23 violations."

24 B. Insert as new paragraph 4, at page 2 thereof, the following:

25 "4. This Agreement shall terminate on March 22, 2008,
26 and shall terminate earlier than March 22, 2008, only if
27 the 1991 MOU is either amended or superseded by
28 another Memorandum of Understanding between the

1 City and County to expressly terminate the 1977 MOU
2 after September 30, 1998. However, at any occasion
3 after September 30, 1998, if the parties meet to
4 negotiate an amendment to the 1991 MOU, they shall
5 contemporaneously consider the question of whether
6 or not to terminate the 1977 MOU prior to March 22,
7 2008."

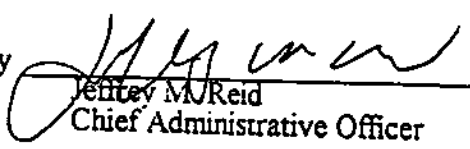
8 3. Except as thus amended, all other provisions of the 1977 MOU remain the
9 same and are unaffected by this First Amendment to the 1977 MOU.

10 4. City and County agree that each has the legal authority to enter into and be
11 legally bound by this First Amendment, that each has exercised its discretion in
12 connection with its Constitutional and statutory responsibilities, and that each has
13 determined that this First Amendment is a lawful and valid act and is undertaken in
14 accordance with all applicable California law.

15 IN WITNESS WHEREOF, the parties have executed this First Amendment to the 1977
16 MOU in the County of Fresno, State of California, on the date first set forth above.

17 CITY OF FRESNO

18 By

19 
Jeffrey M. Reid

20 Chief Administrative Officer

21
22 Approved as to Legal Form:

23 HILDA CANTU MONTTOY
24 Fresno City Attorney

25 By

26 
Hilda Cantu Montto

27 Attorney for the City of Fresno

28 *Signatures continued on next page.*

ATTEST:


REBECCA E. KLISCH
CITY CLERK

By




SFD 2.2 1998

COUNTY OF FRESNO

By: 
Chairman,
Board of Supervisors

ATTEST:
SHARI GREENWOOD, CLERK
TO THE BOARD OF SUPERVISORS

By: 
Deputy

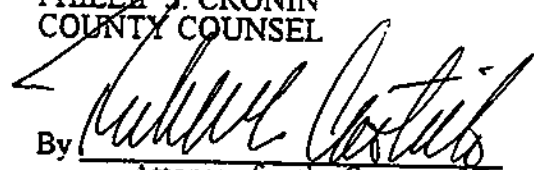
APPROVED AS TO ACCOUNTING FORM:

GARY W. PETERSON, AUDITOR-
CONTROLLER/TREASURER-TAX
COLLECTOR

By: 

APPROVED AS TO LEGAL FORM:

PHILIP S. CRONIN
COUNTY COUNSEL

By: 
Attorney for the County of Fresno

AM77AMEND.FIN

419-1930

AGREEMENT

BETWEEN THE COUNTY OF FRESNO AND THE CITY OF FRESNO
RELATING TO MUNICIPAL COURT FINES AND FORFEITURES

THIS AGREEMENT, made as of March 22, 1977, between the County of Fresno, a political subdivision of the State of California, party of the first part, and the City of Fresno, a municipal corporation, to wit, a charter city within said County, party of the second part:

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of section 1463 of the Penal Code and related sections, fines and forfeitures collected by the Municipal Court of the Fresno Judicial District are currently disposed of by the Treasurer of the County of Fresno by transferring the same to the proper funds of the County of Fresno and the City of Fresno in accordance with the percentage set forth in said section:

WHEREAS, said section provides that any county and city therein may by mutual agreement adjust the percentage therein specified; and

WHEREAS, as a part of the settlement of the controversy between the County and City relating to the sharing of the sales and use taxes collected within the city, the parties have agreed that 100% of all fines and forfeitures referred to in section 1463(c) of the Penal Code collected by the Municipal Court of the Fresno Judicial District shall, on and after April 1, 1977, be transferred by the County Treasurer to the County general fund to be retained by the County for its use and benefit, except as hereinafter otherwise provided.

NOW, THEREFORE, the parties hereto have and by these presents do agree as follows:

1. All transfers by the Fresno County Treasurer made pursuant to Penal Code Section 1463(c), of the fines and forfeitures specified therein collected and deposited with said Treasurer by the Municipal Court of the Fresno Judicial District, shall be made, on and after April 1, 1977, one hundred percent (100%) to the general fund of the County of Fresno; provided, however, that any of said fines and forfeitures so collected and deposited on or before February 28, 1977, shall, whether transferred before or after April 1, 1977, be distributed according to the percentage allocation specified in Penal Code Section 1463(c).

2. This agreement shall not be deemed to apply to any funds except those which would otherwise be transferred to the City of Fresno pursuant to Section 1463(c) of the Penal Code.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed as of the date hereinabove contained, pursuant to resolutions of the respective governing bodies thereof duly made.

COUNTY OF FRESNO

CITY OF FRESNO

BY *John R. Paulson*
Chairman,
Board of Supervisors

BY *R. W. Hendon*
Chief Administrative Officer

APPROVED AS TO LEGAL FORM:

BY *Robert H. Nash*
ROBERT H. NASH
Attorney Counsel

APPROVED AS TO FORM
CITY CLERK
James J. [Signature]

H. G. WINGETT, Clerk of
the Board of Supervisors

1
2
3
4 MEMORANDUM OF UNDERSTANDING BETWEEN
5 THE COUNTY OF FRESNO, THE CITY OF CLOVIS,
6 AND THE CLOVIS REDEVELOPMENT AGENCY
7

8 THIS MEMORANDUM OF UNDERSTANDING (hereinafter "MOU") is
9 made and executed this _____ day of _____, 1990,
10 by and between the COUNTY OF FRESNO, a political subdivision of
11 the State of California (hereinafter referred to as "COUNTY"),
12 the CITY OF CLOVIS, a municipal corporation of the State of
13 California (hereinafter referred to as "CITY"), and the CLOVIS
14 REDEVELOPMENT AGENCY, a redevelopment agency organized and
15 existing under and by virtue of the laws of the State of
16 California (hereinafter referred to as "AGENCY").

17 W I T N E S S E T H

18 WHEREAS, COUNTY, CITY and AGENCY wish to work together to
19 develop a fair and equitable approach to tax sharing and the
20 encouragement of sound economic growth; and

21 WHEREAS, in order to encourage economic development and
22 environmentally sound land use planning, it is important that
23 any tax sharing among COUNTY, CITY and AGENCY be determined in
24 advance and that such arrangements not be fiscally detrimental
25 to either COUNTY, CITY, or AGENCY; and

26 WHEREAS, COUNTY, CITY and AGENCY recognize the importance
27 of COUNTY and CITY services and are prepared to cooperate in an
28 effort to address COUNTY's and CITY's fiscal problems; and

1 WHEREAS, through annexation and appropriate redevelopment,
2 CITY and AGENCY provide the opportunity for economic growth and
3 development to support public services for both CITY and
4 COUNTY; and

5 WHEREAS, close cooperation between COUNTY, CITY and AGENCY
6 is necessary to maintain the quality of life throughout Fresno
7 County and deliver needed services in the most cost-efficient
8 manner to all CITY and COUNTY residents; and

9 WHEREAS, COUNTY recognizes the need for orderly growth
10 within and adjacent to CITY and for supporting appropriate
11 annexations and promoting the concentration of development
12 within CITY; and

13 WHEREAS, CITY and AGENCY recognize that development within
14 CITY limits may also have the effect of concentrating
15 revenue-generating activities within CITY rather than in
16 unincorporated areas and that, as a result of Proposition 13
17 and its implementing legislation, annexation by CITY of
18 unincorporated territory can result in a loss of revenue
19 sources for COUNTY unless there is significant new development
20 activity as a result of annexation; and

21 WHEREAS, annexation which results in the development of
22 urban uses in response to a clearly demonstrated community
23 demand is appropriate; and well planned and fiscally sound
24 redevelopment can be a valuable tool in the physical and
25 economic development of CITY and COUNTY.

26 NOW, THEREFORE, COUNTY, CITY and AGENCY hereby agree as
27 follows:
28

1 ARTICLE I

2 DEFINITIONS

3 Unless the particular provision or context otherwise
4 requires, the definitions contained in this article and in the
5 Revenue and Taxation Code shall govern the construction,
6 meaning, and application of words used in this MOU.

7 1.1 "Base property tax revenues" means property tax
8 revenues allocated by tax rate equivalents to all taxing
9 jurisdictions as to the geographic area comprising a given tax
10 rate area annexed in the fiscal year immediately preceding the
11 tax year in which property tax revenues are apportioned
12 pursuant to this MOU, including the amount of State
13 reimbursement for the homeowners' and business inventory
14 exemptions.

15 1.2 Except as provided in section 6.1, "property tax
16 increment" means revenue from the annual tax increment, as
17 "annual tax increment" is defined in Section 98 of the Revenue
18 and Taxation Code, attributable to the tax rate area for the
19 respective tax year.

20 1.3 "Substantial development" or "substantially developed"
21 means real property which, prior to annexation, has an
22 improvement value to land value ratio equal to or greater than
23 1.25:1, as of the lien date in the fiscal year in which the
24 annexation becomes effective.

25 1.4 "Property tax revenue" means base property tax
26 revenue, plus the property tax increment for a given tax rate
27 area.

1 forth fully at this point. This MOU shall not apply to
2 annexations proposed by CITY which are not in compliance with
3 its terms or which fail to meet The Standards. If a proposed
4 annexation is not in compliance with the terms of this MOU,
5 including, but not limited to, The Standards, then no property
6 tax exchange agreement, as required by Revenue and Taxation
7 Code Section 99, shall exist in regards to that proposed
8 annexation. Any such non-complying annexation shall be handled
9 individually through separate negotiations between CITY and
10 COUNTY.

11 2.2 In order to encourage the orderly processing of
12 proposed annexations, CITY shall, at least thirty (30) days
13 prior to filing any annexation proposal with the Fresno County
14 Local Agency Formation Commission (hereinafter "LAFCO"), notify
15 COUNTY of its intention to file such proposal and the date upon
16 which CITY expects such proposal to be filed. Upon COUNTY's
17 request, CITY agrees to meet with COUNTY to review whether its
18 proposed annexation complies with The Standards. Within
19 fifteen (15) days after the date COUNTY receives notice by CITY
20 of its annexation proposal, COUNTY shall notify CITY in writing
21 if it has determined that the proposed annexation is
22 inconsistent with The Standards. Upon receipt of such
23 notification, CITY may either modify the proposal to COUNTY's
24 specifications or adopt a resolution finding that the proposed
25 annexation is, in CITY's determination, consistent with The
26 Standards.

1 2.3 If CITY adopts a resolution making the findings
2 described in Section 2.2, then COUNTY may challenge such
3 findings by appropriate court action filed within thirty (30)
4 days of receipt of written notice of the adoption of CITY's
5 resolution. The court shall independently review the evidence
6 and determine whether the proposed annexation is consistent
7 with The Standards.

8 As an alternative to a judicial challenge by the
9 COUNTY, the parties may within the aforesaid thirty (30) day
10 period mutually agree in writing to arbitrate their dispute
11 through proceedings conducted in accordance with the rules
12 established by the American Arbitration Association. The
13 parties upon agreeing to arbitrate will proceed with
14 arbitration in a timely manner. The arbitrator hearing the
15 matter shall independently review the evidence and determine
16 whether the proposed annexation is consistent with The
17 Standards.

18 Costs incurred by the prevailing party, either in
19 court proceedings or arbitration, shall be paid by the
20 non-prevailing party. The parties agree that CITY shall not
21 proceed to LAFCO with the proposed annexation until the dispute
22 is finally resolved either by court or arbitration
23 proceedings. If CITY attempts to proceed with such proposed
24 annexation prior to the expiration of the period in which
25 COUNTY may file its court action or agree to arbitrate, or
26 prior to the final conclusion of such court or arbitration
27 proceedings, then this memorandum shall immediately terminate
28 as to such annexation and in particular no property tax

1 exchange agreement, as required by section 99 of the Revenue
2 and Taxation Code, shall exist between CITY and COUNTY as to
3 that proposed annexation.

4 Notwithstanding the foregoing, the CITY may proceed to
5 LAFCO under this MOU if court or arbitration proceedings are
6 not completed within thirty (30) days after the filing thereof
7 provided, however, that LAFCO in its resolution of approval, at
8 the request of the CITY, conditions the completion of the
9 annexation upon the Executive Officer's prior receipt of a
10 certified copy of the document evidencing the finality of the
11 aforesaid court or arbitration proceedings determining that the
12 proposed annexation is consistent with Exhibit "1" attached
13 hereto, or alternatively, receipt of a written stipulation of
14 the CITY and COUNTY agreeing that a master property tax
15 agreement still exists permitting the completion of such
16 proposed annexation. If LAFCO declines to include the
17 aforesaid condition in its approval, or CITY fails to timely
18 request such condition, no property tax exchange agreement as
19 required by Section 99 of the Revenue and Taxation Code shall
20 exist between CITY and COUNTY as to that proposed annexation.
21 If CITY nevertheless attempts to proceed with the annexation,
22 such action on the part of the CITY shall also be deemed good
23 cause for the COUNTY at its option to terminate this Memorandum
24 of Understanding in its entirety.

25 ARTICLE III

26 EXCHANGE OF PROPERTY TAX REVENUES TO BE MADE UNDER

27 SECTION 99 OF THE REVENUE AND TAXATION CODE

28 3.1 The property tax revenues collected in relation to

1 annexations covered by the terms of this MOU shall be
2 apportioned between CITY and COUNTY as set forth in sections
3 3.2 and 3.3 below. The parties acknowledge that, pursuant to
4 Sections 54902, 54902.1 and 54903 of the Government Code and
5 Sections 97 and 99 of the Revenue and Taxation Code, the
6 distribution of such property tax revenues will not be
7 effective until the revenues are collected in the tax year
8 following the calendar year in which the statement of boundary
9 changes and the map or plat is filed with the County Assessor
10 and the State Board of Equalization:

11 3.2 In regards to the annexation of real properties which
12 are not considered substantially developed at the time of
13 annexation, COUNTY will retain all of its base property tax
14 revenue upon annexation. The amount of the property tax
15 increment for special districts whose services are assumed by
16 CITY shall be combined with the property tax increment of the
17 COUNTY, the sum of which shall be allocated between CITY and
18 COUNTY pursuant to the following ratio:

19 COUNTY: 63%

20 CITY: 37%

21 3.3 In regards to the annexation of real properties which
22 are considered substantially developed at the time of
23 annexation, property tax revenue (base plus increment) will be
24 reallocated as follows: a detaching or dissolving district's
25 property tax revenue (base plus increment) shall be combined
26 with COUNTY's and the sum of which shall be allocated between
27 CITY and COUNTY pursuant to the ratio set forth in section 3.2.

28

1 ARTICLE IV

2 DEVELOPMENT WITHIN AND ADJACENT TO

3 CITY'S SPHERE OF INFLUENCE

4 4.1 COUNTY shall not approve any discretionary development
5 permits for new urban development within the CITY's sphere of
6 influence which is within one half mile of the city boundary
7 unless that development shall have first been referred to CITY
8 for consideration of possible annexation. If CITY does not,
9 within sixty (60) days of receipt of notice from COUNTY, adopt
10 a resolution of application to initiate annexation proceedings
11 before LAFCO, COUNTY may approve development permits for that
12 new urban development, considering CITY's general plan, and
13 consistent with COUNTY's general plan policies, provided: (1)
14 that the development is orderly and does not result in the
15 premature conversion of agricultural lands, and (2) that COUNTY
16 shall require compliance with development standards comparable
17 to CITY's and charge fees reflecting the increased
18 administrative and implementing cost where such CITY standards
19 are more stringent than COUNTY's. CITY agrees to cooperate
20 with COUNTY in providing data in support of fees covering the
21 applicable standards. COUNTY's actual fees may be more or less
22 than CITY's, depending on the review. CITY and COUNTY may
23 annually prepare such a fee schedule for COUNTY use to be
24 adopted during COUNTY's budget process. COUNTY agrees to adopt
25 the policies, procedures and ordinances necessary to effectuate
26 the intent of this article. COUNTY will transfer fees
27 collected for public facility improvements at the earliest time
28 when it is legally permissible to do so.

✓ 4.2 COUNTY shall support urban unification. To this end, COUNTY shall oppose the creation of new governmental entities within CITY's sphere of influence, except for such entities that may be necessary to address service requirements that cannot be addressed by annexation to CITY. CITY and COUNTY will support transition agreements with current service providers which recognize the primary role of cities as providers of urban services within urban areas and where current service providers of urban services have participated in service master planning.

4.3 Within the CITY's sphere of influence and the area beyond that sphere of influence, as shown in Exhibit "4", COUNTY and CITY agree that, in the early stages of preparation of general plan amendments for new urban development, they shall consult at the staff level in such fashion as to provide meaningful participation in the policy formulation process, and shall likewise consult on other policy changes which may have an impact on growth or the provision of urban services. CITY shall also be given the opportunity to respond to COUNTY before the final document is prepared for presentation to COUNTY's Planning Commission. COUNTY agrees that it will solicit comments from CITY in the preparation of any Initial Study required by the California Environmental Quality Act undertaken within the area. If CITY determines such urban development may have a significant effect on the environment, the COUNTY shall require an EIR to be prepared.

1 4.4 The policies set forth in this article shall not apply
2 to development applications received by COUNTY prior to the
3 date of this MOU.

4 ARTICLE V

5 IMPLEMENTATION OF SALES TAX

6 REVENUE COLLECTION

7 5.1 Pursuant to the Bradley Burns Uniform Local Sales and
8 Use Tax Law, Part 1.5, Division 2, of the Revenue and Taxation
9 Code (commencing with Section 7200), CITY is, concurrent with
10 the execution of this MOU, amending its local sales and use tax
11 ordinance. This amendment shall be timely forwarded to the
12 State Board of Equalization so that it will become operative as
13 of October 1, 1990. This amendment shall enable COUNTY,
14 pursuant to its sales and use tax ordinance, to collect a
15 portion of the sales and use tax revenues generated within the
16 incorporated areas of CITY in accordance with the applicable
17 rate set forth on Exhibit "2", attached hereto and incorporated
18 by reference as if set forth fully at this point. The format
19 of this amendment by CITY to its local sales and use tax
20 ordinance shall likewise provide as a credit against the
21 payment of taxes due under such ordinance, an amount equal to
22 any sales and use tax due to COUNTY.

23 5.2 Except as otherwise provided herein, CITY further
24 agrees that the amendment adopted pursuant to section 5.1 above
25 shall likewise provide for the periodic reallocation of
26 additional sales tax revenues generated within the incorporated
27 areas of CITY in accordance with the schedule set forth on
28 Exhibit "2". Each such incremental adjustment shall go into

1 effect at the commencement of the fiscal year indicated. These
2 periodic adjustments shall enable COUNTY, pursuant to its sales
3 and use tax ordinance, to collect that portion of the sales and
4 use tax revenues generated within the incorporated areas of
5 CITY equal to the applicable percentage as specified in Exhibit
6 "2". These periodic adjustments shall automatically go into
7 effect provided that:

8 5.2.1 CITY receives sales tax revenues per capita in
9 an amount greater than fifty percent (50%) of the
10 sales tax revenue per capita collected by all Fresno
11 County cities when taken as a group during the most
12 recent fiscal year for which State Board of
13 Equalization information is available, then it hereby
14 agrees to reallocate sales tax revenues with COUNTY
15 beginning in fiscal year 1990-91 in accordance with
16 the provisions of this article; and

17 5.2.2 CITY's annual sales tax revenue growth for the
18 most recent fiscal year for which sales tax revenue
19 information is available from the State Board of
20 Equalization allows CITY to reallocate sales tax
21 revenue at the percentage designated in Exhibit "2"
22 and still have a net increase in its remaining sales
23 tax revenue when compared with the fiscal year
24 immediately preceding the fiscal year described
25 above. The periodic phase in of sales tax
26 reallocation described herein shall be delayed from
27 year-to-year if CITY falls below the sales tax
28 reallocation threshold as identified in section 5.2.

1 In those years in which CITY does not meet the sales
2 tax reallocation threshold, CITY's sharing proportion
3 shall continue at the same rate as in the last year in
4 which CITY met or exceeded the threshold. When, in a
5 subsequent year, CITY again meets or exceeds the
6 threshold, the sharing proportion of CITY shall be at
7 the next higher sharing proportion shown on Exhibit
8 "2", and the annual phase-in shall continue therefrom.

9 5.3 The sales tax ordinance amendments adopted by CITY
10 pursuant to this article are intended to reduce CITY's sales
11 tax rate from its then-existing level to a level which thereby
12 enables COUNTY, pursuant to its sale tax ordinance, to continue
13 collecting those amounts set forth in the previous provisions
14 of this article as well as the applicable percentages set forth
15 on Exhibit "2". In addition, each periodic adjustment is
16 intended by the parties to enable COUNTY to collect an amount
17 equivalent to the applicable percentage specified in Exhibit
18 "2".

19 5.4 Whenever CITY proposes an annexation of unincorporated
20 territory which generates substantial sales tax revenue for
21 COUNTY, CITY agrees to further amend its local sales and use
22 tax ordinance as set forth in this section. Notwithstanding
23 the language of subsections 5.2.1 and 5.2.2, this additional
24 amendment shall become operative no later than the commencement
25 of the next calendar quarter following the date upon which such
26 annexation is certified as complete by the Executive Officer of
27 LAFCO. This additional amendment shall decrease CITY's sales
28 tax rate to yield an amount equal to the amount of substantial

1 sales tax revenue being collected by COUNTY in the area to be
2 annexed, thus enabling COUNTY to increase its sales tax rate by
3 a corresponding percentage, which shall continue to accrue to
4 COUNTY throughout the term of this MOU. Any such additional
5 amendment made by CITY pursuant to this section shall likewise
6 preserve intact any periodic adjustments previously implemented
7 pursuant to this MOU. Further, CITY agrees that it shall not
8 split or separate areas into smaller annexations for the
9 purpose of, or having the effect of, creating an annexation or
10 annexations which, individually, do not generate substantial
11 sales tax revenue, but which would generate such revenue if
12 combined. For purposes of this article, the term "substantial
13 sales tax revenue" shall be defined as sales tax revenue
14 derived from taxable sales in the area annexed equal to at
15 least:

16 5.4.1 If only information for less than one fiscal
17 year exists, then \$100,000 in taxable sales in the
18 most recent quarter for which such information from
19 the State Board of Equalization is available in
20 writing or electronic or magnetic media, and projected
21 to a full four quarters, at least \$400,000 in taxable
22 sales.

23 5.4.2 If information for one or more years exist,
24 then \$400,000 in taxable sales in the most recent year
25 for which such information from the State Board of
26 Equalization is available in writing or electronic or
27 magnetic media.

1 5.5 If CITY fails to amend its sales tax ordinance as
2 provided in section 5.1, or if the amendment to the sales tax
3 ordinance fails to provide for the periodic reallocation of
4 additional sales tax revenues as provided in section 5.2, the
5 subsections therein, and Exhibit "2", or if CITY fails to
6 further amend its sales tax ordinance upon the annexation of
7 unincorporated territory which generates substantial sales tax
8 revenue for COUNTY as provided in section 5.4, or if CITY
9 splits or separates areas into smaller areas as prohibited by
10 section 5.4, then this MOU shall immediately terminate and, in
11 particular, no property tax exchange agreement, as required by
12 Section 99 of the Revenue and Taxation Code, shall exist
13 between CITY and COUNTY.

14 5.6 CITY and COUNTY further agree that the annual report
15 of the State Board of Equalization and the Department of
16 Finance Annual Population Estimates shall be used as the data
17 source for the purpose of calculating the per capita sales tax
18 revenue pursuant to this MOU.

19 5.7 Application of the formula to be used in the
20 allocation of revenues pursuant to section 5.2 is illustrated
21 in Exhibit "3", attached hereto and incorporated by reference
22 herein as if set forth fully at this point.

23 ARTICLE VI

24 REDEVELOPMENT

25 6.1 The parties acknowledge that circumstances may develop
26 making it desirable to negotiate the amount of property tax
27 increment, as described in Section 33670 of the Health and
28 Safety Code, that AGENCY will pass through to County and the

1 Fresno County Library District (hereinafter "Library District")
2 in individual redevelopment projects. In those instances where
3 CITY or AGENCY wish to negotiate, the parties agree to conduct
4 and complete such negotiations within a 60 day period following
5 CITY or AGENCY's written notice to COUNTY of the desire to
6 negotiate as to the particular redevelopment project. These
7 negotiations will take place prior to AGENCY approval of the
8 preliminary report. In the absence of such negotiations or if
9 negotiations do not result in an agreement within the
10 negotiating period, CITY and AGENCY will pass through to COUNTY
11 and the Library District one hundred percent (100%) of their
12 respective shares of the property tax increment for the project.

13 The parties shall take all actions necessary under Section
14 33401 of the Health and Safety Code and other provisions of law
15 to accomplish the purposes of this article. This obligation
16 includes a finding by AGENCY that any pass through of the
17 property tax increment to COUNTY and the Library District is
18 necessary and appropriate to alleviate any financial burden or
19 detriment to COUNTY and the Library District caused by a
20 redevelopment project.

21 6.2 Understanding that the following remedies are available,
22 without statement herein, but desiring that the parties be
23 aware, if a redevelopment project is approved without CITY and
24 AGENCY fully complying with this article, then COUNTY's
25 cumulative remedies shall include, but not be limited to, the
26 following:

27

28

1 6.2.1 COUNTY may, to the full extent provided by law,
2 challenge the validity of the redevelopment plan
3 approved or adopted for a redevelopment project and
4 may exercise any and all other such remedies it may
5 have related to such redevelopment project. This
6 subsection shall not be construed to allow COUNTY to
7 challenge a redevelopment plan approved prior to the
8 date of this MOU, except as allowed by law in the
9 absence of this MOU.

10 6.2.2 If CITY and AGENCY fail or refuse to negotiate
11 with COUNTY or if negotiations do not conclude in an
12 agreement, and CITY and AGENCY pass through to COUNTY
13 and the Library District less than one hundred percent
14 (100%) of their respective shares of the property tax
15 increment, then this MOU shall automatically terminate
16 and, in particular, no property tax exchange
17 agreement, as required by Section 99 of the Revenue
18 and Taxation Code, shall exist between CITY and COUNTY.

19 6.2.3 COUNTY may maintain a court action for specific
20 performance of the provisions of this article, and for
21 declaratory relief to settle disputes as to CITY's or
22 AGENCY's compliance with this article.

23 ARTICLE VII

24 COUNTY AND CITY ASSURANCES ON USE OF REVENUE

25 7.1 COUNTY recognizes that certain revenue reallocated to
26 it by this MOU would otherwise have been appropriated by CITY
27 to meet demands for services. Therefore, COUNTY agrees to use
28 this new revenue in order to maintain levels of COUNTY services

1 that are supportive of CITY services, unless the federal or
2 state governments materially reduce the level of funding for
3 such services. Examples of such COUNTY services include:
4 criminal justice system, public health, and other similar
5 services. This section shall not be construed as establishing
6 minimum levels of COUNTY services that are supportive of CITY
7 services.

8 7.2 CITY agrees to continue enforcement of laws which
9 result in the collection of fines and forfeitures.

10 ARTICLE VIII

11 COOPERATIVE EFFORTS AT LEGISLATIVE REFORM

12 8.1 CITY and COUNTY agree to work jointly for state
13 legislation and appropriations that would improve the fiscal
14 condition of both CITY and COUNTY.

15 ARTICLE IX

16 COOPERATIVE EFFORTS REGARDING UNIVERSITY OF

17 CALIFORNIA CAMPUS SITE

18 9.1 The CITY and COUNTY support a University of California
19 campus site in Fresno County, and shall work in cooperation to
20 ensure that a Fresno County site is chosen by the University of
21 California which may include provision of infrastructure and
22 necessary support systems including but not limited to water
23 resource transfers; waste water treatment; streets; highways;
24 and transit. It is further agreed that the parties shall
25 assist in providing for the mitigation of any environmental
26 impacts related to the development of the chosen site (as
27 identified through the CEQA process) to the maximum extent
28 possible.

1 ARTICLE X

2 GENERAL PROVISIONS

3 10.1 Term of MOU.

4 This MOU shall commence as of the date of execution by
5 COUNTY, CITY and AGENCY and shall remain in effect for a period
6 of fifteen (15) years, unless terminated prior to that time by
7 mutual agreement of the parties.

8 In addition, should all or any portion of this MOU be
9 declared invalid or inoperative by a court of competent
10 jurisdiction, or should any party to this MOU fail to perform
11 any of its obligations hereunder, or should any party to this
12 MOU take any action to frustrate the intentions of the parties
13 as expressed in this MOU, then in such event, this entire MOU,
14 as well as any ancillary documents entered into by the parties
15 in order to fulfill the intent of this MOU, shall immediately
16 be of no force and effect and, in particular, no property tax
17 exchange agreement, as required by Section 99 of the Revenue
18 and Taxation Code, shall exist between the CITY and COUNTY as
19 to unincorporated property, and CITY shall not be required to
20 further amend its sales tax ordinance.

21 Other than termination for a reason specified in this
22 Agreement, if the COUNTY terminates this Agreement arbitrarily
23 and without good cause, the CITY shall be entitled to increase
24 its sales tax by one-half of one percent (.005) above its tax
25 in place at the time of COUNTY's breach, beginning the next
26 calendar quarter following the expiration of thirty (30) days
27 written notice of breach to COUNTY.

28

1 Conversely, other than termination for a reason specified
2 in this Agreement, if the CITY terminates this Agreement
3 arbitrarily and without good cause, the COUNTY shall be
4 entitled to increase its sales tax by one-half of one percent
5 (.005) above its tax in place at the time of CITY's breach,
6 beginning the next calendar quarter following the expiration of
7 thirty (30) days written notice of breach to CITY.

8 The parties covenant to make necessary changes in their
9 respective sales tax ordinances to effectuate the intent hereof
10 notwithstanding termination of this Memorandum of Understanding.

11 10.2 Termination Due to Changes in Law.

12 The purpose of this MOU is to alleviate in part the revenue
13 shortfall experienced by COUNTY which may result from CITY's
14 annexation of revenue-producing or potentially
15 revenue-producing properties located within the unincorporated
16 area of COUNTY, and from CITY's and AGENCY's redevelopment
17 projects. The purpose of this MOU is also to enable CITY to
18 proceed with territorial expansion and economic growth
19 consistent with the terms of existing law as mutually
20 understood by the parties as well as to maximize each party's
21 ability to deliver essential governmental services. In
22 entering into this MOU, the parties mutually assume the
23 continuation of the existing statutory scheme for the
24 distribution of available tax revenues to local government and
25 that assumption is a basic tenet of this MOU. Accordingly, it
26 is mutually understood and agreed that this MOU may, by mutual
27 agreement be terminated should changes occur in statutory law,
28 court decisions or state administrative interpretations which

1 negate the basic tenets of this MOU.

2 10.3 Modification.

3 This MOU and all of the covenants and conditions set forth
4 herein may be modified or amended only by a writing duly
5 authorized and executed by COUNTY, CITY and AGENCY.

6 10.4 Enforcement.

7 COUNTY, CITY and AGENCY each acknowledge that this
8 instrument cannot bind or limit themselves or each other or
9 their future governing bodies in the exercise of their
10 discretionary legislative power. However, each binds itself
11 that it will insofar as is legally possible fully carry out the
12 intent and purposes hereof, if necessary by administrative
13 action independent of ordinances, and that this MOU may be
14 enforced by injunction to the extent allowed by law.

15 10.5 Entire MOU; Supersession.

16 With respect to the subject matter hereof, this MOU
17 supersedes any and all previous negotiations, proposals,
18 commitments, writings, and understandings of any nature
19 whatsoever between COUNTY, CITY and AGENCY except as otherwise
20 provided herein. This MOU does not supersede the "Joint
21 Resolution on Metropolitan Planning" except where that
22 resolution is inconsistent with this MOU; in such a case, this
23 MOU supersedes the resolution. This MOU does not supersede
24 existing written agreements among COUNTY, CITY and AGENCY
25 pertaining to redevelopment, except to the extent redevelopment
26 projects, as defined in this MOU, trigger the application of
27 article VI of this MOU. This MOU also does not resolve
28 disputes among the parties related to existing written

1 agreements pertaining to redevelopment and is not intended to
2 waive any rights or obligations thereunder.

3 10.6 Notice.

4 All notices, requests, certifications or other
5 correspondence required to be provided by the parties to this
6 MOU shall be in writing and shall be delivered by first class
7 mail or an equal or better form of delivery to the respective
8 parties at the following addresses:

9 COUNTY

10 County Administrative Officer
11 County of Fresno
12 Hall of Records, Room 300
2281 Tulare Street
Fresno, CA 93721

CITY and AGENCY

City Manager
City of Clovis
City Hall
1033 Fifth Street
Clovis, CA 93612

13 10.7 Renegotiation.

14 If COUNTY enters into an MOU with another City that has
15 terms and conditions more favorable in the aggregate to that
16 City than those terms and conditions contained herein, COUNTY
17 agrees that it will negotiate such terms and conditions upon
18 written request from CITY or AGENCY, with the intent of
19 offering a more favorable agreement. Negotiations shall
20 conclude thirty (30) days from the date of receipt of notice by
21 COUNTY and, if agreement is tentatively reached during that
22 period, the legislative bodies of the parties shall approve any
23 such amendment within thirty (30) days following the date of
24 the tentative agreement. COUNTY, CITY and AGENCY are not
25 required to reach agreement.

26 10.8 Notice of Breach.

27 Prior to this MOU being terminated as expressly provided in
28 sections 5.5, 6.2.2 and 10.1, COUNTY shall provide notice to

1 CITY and AGENCY of such breach, and CITY and AGENCY shall
2 comply with the terms and conditions of this MOU within thirty
3 (30) days of receipt of notice. If CITY or AGENCY fail to
4 timely comply, this MOU shall terminate as provided in sections
5 5.5, 6.2.2 and 10.1. During the thirty (30) day notice period
6 and until CITY and AGENCY certify in writing that they are in
7 compliance and COUNTY agrees in writing, no property tax
8 exchange agreement, as required by Section 99 of the Revenue
9 and Taxation Code, shall exist between COUNTY and CITY with
10 respect to any pending annexations.

11 In like manner the CITY and AGENCY shall give COUNTY thirty
12 (30) days written notice of any alleged breach of this MOU on
13 the part of the COUNTY.

14 Except as otherwise provided in this MOU for a breach of
15 its terms and conditions, the parties may enforce this MOU in a
16 manner authorized by law.

17 IN WITNESS WHEREOF, the parties hereto have executed this
18 MOU in the County of Fresno, State of California, on the dates
19 set forth above.

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28 / / /

COUNTY OF FRESNO, a Political
Subdivision of the State of
California ("COUNTY")

BY: _____
Chairman, Board of Supervisors

CITY OF CLOVIS, a Municipal
Corporation of the State of
California ("CITY")

BY: _____
Mayor
City of Clovis

REDEVELOPMENT AGENCY OF THE CITY OF
CLOVIS

BY: _____
Chairman

BY: _____
Secretary

ATTEST:

Shari Greenwood, Clerk to
the Board of Supervisors

BY: _____
Deputy

ATTEST:

City Clerk
City of Clovis

1 APPROVED AS TO LEGAL FORM:

2 LELAND STEPHENSON, CITY ATTORNEY
3 CITY OF CLOVIS

4 BY: _____

5 APPROVED AS TO ACCOUNTING FORM:

6 GARY W. PETERSON, AUDITOR-CONTROLLER/
7 TREASURER

8 BY: 
9

10 REVIEWED AND RECOMMENDED FOR APPROVAL:

11 RICHARD D. WELTON, DIRECTOR,
12 PUBLIC WORKS AND DEVELOPMENT SERVICES DEPARTMENT

13 BY: 
14

15 APPROVED AS TO LEGAL FORM

16 MAX E. ROBINSON, COUNTY COUNSEL

17 BY: 
18
19
20
21
22
23

24 GK
25 0860e-0145
26
27
28

EXHIBIT 2

EQUIVALENT SALES TAX REVENUE
SHARING PROPORTIONS

<u>YEAR</u>	<u>CITY</u>
0 (Fiscal Year 1989)	0
1	1/2
2	1 1/2
3	2
4	2 1/2
5	3
6	3 1/2
7	4
8	4 1/2
9	5
10	5
11	5
12	5
13	5
14	5
15	5

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EXHIBIT 1

CITY	SALES TAX	POPULATION	PER CAPITA	SALES TAX	POPULATION	PER CAPITA	MINTE	MINTE	GROWTH	GROW
	REVENUE	JANUARY 1	SALES TAX	REVENUE	JANUARY 1	SALES TAX	50%	50%	OVER	TO
	1988	1988	REVENUE	1989	1989	REVENUE	CRITERIA	CRITERIA	1/20	198
	A	B	C	D	E	F	G	H	I	J
CLOVIS	\$3,127,984	44,919	\$69.44	\$3,669,522	46,741	\$78.51	A	A	Y	17.
COALINGA	\$432,760	7,860	\$55.06	\$488,148	8,221	\$59.40	A	A	Y	12.
FIREBAUGH	\$303,470	3,946	\$76.13	\$329,281	4,046	\$81.18	A	A	Y	8.
POWLER	\$215,981	1,057	\$70.63	\$236,236	1,076	\$78.80	A	A	Y	9.
FRESNO	\$31,984,868	308,888	\$103.55	\$33,815,208	311,779	\$108.46	A	A	Y	5.
HURON	\$114,661	3,715	\$30.86	\$118,740	3,778	\$31.43	B	B	Y	3.6
KENNY	\$425,422	4,512	\$94.29	\$451,474	4,852	\$93.05	A	A	Y	6.1
KINGSBURG	\$278,461	6,422	\$43.36	\$303,982	6,789	\$44.77	B	B	Y	9.2
MENDOTA	\$263,017	6,851	\$38.39	\$394,040	6,929	\$56.87	B	A	Y	49.8
ORANGE COVE	\$106,330	4,644	\$22.90	\$108,161	4,719	\$22.92	B	B	Y	1.7
PARLIN	\$101,331	7,803	\$13.01	\$101,843	8,046	\$12.66	B	B	N	0.3
REEDLEY	\$910,187	14,132	\$64.41	\$1,024,068	14,846	\$68.98	A	A	Y	12.5
SAN JOAQUIN	\$110,406	2,063	\$53.52	\$127,027	2,103	\$60.40	A	A	Y	13.1
SANGER	\$821,390	15,142	\$54.25	\$903,984	15,529	\$58.21	A	A	Y	10.1
SILMA	\$1,235,465	14,039	\$88.00	\$1,394,145	14,125	\$97.32	A	A	Y	12.8
SALES TAX REVENUE	\$40,411,933	447,833		43,466,016	455,778					
TOTAL FOR ALL CITIES										
PER CAPITA ALL CITIES			\$90.24			\$95.37				
50% MINIMUM			\$45.12			\$47.68				
UNINCORPORATED POPULATION		158,182			159,441					
TOTAL COUNTY POPULATION		606,015			621,220					

SALES TAX REVENUES: COLUMNS A & D. SOURCE: STATE BOARD OF EQUALIZATION ANNUAL REPORT STATISTICAL APPENDIX. FISCAL YEAR DATA AVAILABLE IN FEBRUARY OF NEXT CALENDAR YEAR.

POPULATION DATA: COLUMNS B & E. SOURCE: STATE DEPARTMENT OF FINANCE JANUARY 1 POPULATION ESTIMATES. AVAILABLE IN MAY OF THAT CALENDAR YEAR.

PER CAPITA SALES TAX ALL CITIES (FY1988): SUM COLUMN A, AND B. THEN DIVIDE THE COLUMN A SUMMED TOTAL BY THE COLUMN B SUMMED TOTAL. THE RESULT OF SUBTRACTION & DIVISION IS LISTED IN COLUMN C AS "PER CAPITA ALL CITIES."

PER CAPITA SALES TAX ALL CITIES (FY1989): SUM COLUMN D, AND E. THEN DIVIDE THE COLUMN D SUMMED TOTAL BY THE COLUMN E SUMMED TOTAL. THE RESULT OF SUBTRACTION & DIVISION IS LISTED IN COLUMN F AS "PER CAPITA ALL CITIES."

50% MINIMUM CRITERIA: THE PREVIOUS CALCULATIONS DIVIDED BY 2. THEN A COMPARISON OF THIS NUMBER WITH THE NUMBERS IN COLUMNS C & F. THE RESULTS ARE REFLECTED IN COLUMNS G & H. "A" MEANS ABOVE, "B" BELOW THE CRITERIA.

SALES TAX REVENUE GROWTH: COLUMN J; COMPUTE PERCENTAGE GROWTH OF SALES TAX REVENUE: CHANGE IN SALES TAX REVENUE REVENUE IN COLUMN D COMPARED TO COLUMN A.

GROWTH CRITERIA: THE SALES TAX REVENUES OF THE CITY GREW BY AT LEAST 1/20. THE RESULTS ARE REFLECTED IN COLUMN "I" WITH "Y" INDICATING THAT THE CITY'S GROWTH WAS GREATER THAN 1/20.

EXHIBIT 4

